United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, SEPTEMBER 28, 2004 No. 119

House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. BIGGERT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
SEPTEMBER 24, 2004.

I hereby appoint the Honorable JUDY BIGGERT to act as Speaker pro tempore on this day.

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

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

CLEAN WATER AND SANITATION RESOLUTION

Mr. BLUMENAUER. Madam Speaker, on the floor of the House we regularly deal with problems and tragedies. Recently, we have been contending with the horrible consequences of the hurricanes in Florida. But the greatest tragedy in the world today is seldom mentioned here on this floor. Between 2 and 5 million people each year die needlessly because of a lack of access to clean water and adequate sanitation, up to 10,000 people a day and even more tragically over 4,000 children each and every day. Eighty percent of all illness in the developing world is water related, and at any given time, half the population is sick from water-related disease.

Inadequate sanitation makes worse the problems of poverty, disease, biodiversity loss, climate change impact and general environmental degradation.

In the developing world, 90 to 95 percent of household wastes are released untreated into streams, open drains, lake, rivers and coastal waters and lead to wider environmental problems. Many young women in the developing world are not able to go to school because of how much time they spend just getting the water supply for their family.

The magnitude is difficult to comprehend. More than 1.1 billion people lack access to safe drinking water. One in six of the world's population and more than 2.3 billion, one in three, lack access to adequate sanitation.

We have established under the United Nations' Sustainable Development Conference goals, that we are going to reduce by one-half the people in this desperate status. In order to achieve the targets we are going to have to supply 175,000 people a day for the next 10 years with drinking water and sanitation targets for 400,000 people a day. Yet this is a problem that can be solved. We know what to do. We know how to do it. Yes, it will cost tens of billions of dollars. But just in the United States each year, we spend $61 billion on soft drinks, $71 billion on beer, $23 billion on bottled water.

Do we think that the United States can help provide 4 cents a day per person to be able to stop the ravages of water borne disease? Indeed, if the developing world would step up to do its share, it would not even be 4 cents a day because, already, in these troubled countries people are spending an inordinate amount of money on inadequate water supplies. It would be just 2 cents a day extra if the developed world would meet its responsibilities, less than the price of a take-out pizza every year.

I urge Members of the House to consider this issue. This month marks the second anniversary of the World Summit on Sustainable Development in Johannesburg when we made this commitment—the United States and 185 other countries to reduce the population in need by one-half.

We have a resolution, H. Res. 782, that reaffirms this commitment, commending the President's initiative, Water For the Poor. It calls for increased efforts by the United States and all developed countries for allocating water aid to the communities with the greatest need and to communities where it can make the largest difference. It requests the administration to report to Congress on efforts that we make to keep this commitment.

On the second anniversary of the resolution, it is important for us to keep our eye on the ball, to make progress in incremental steps to help prevent tragedy on this global proportion. The resolution has already been bipartisan sponsorship of over 25 Members. We urge Members to cosponsor H. Res. 782.

HARD CHALLENGES FACING THE NATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Madam Speaker, John F. Kennedy once defined America's audacious priorities at home, abroad and in space by saying, ''We choose to do these things not because they were easy, but because they are hard.''

He was right, about the 1960s and about America at all times.

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In America, there are always challenging issues facing the future of our country. The only choice we have in the matter is whether to tackle them or leave them for future generations. For the last few decades, many have unfortunately preferred to put political expedience over responsible governance and allow major issues to be decided by someone else. For too long Congress has ceded its legislative authority to the executive branch and to the courts.

But, Madam Speaker, article 1 of the Constitution says the buck stops right here. And this week, the House will do its duty by the Constitution and the American people and make our voices heard on two of the toughest challenges facing our Nation today.

First, we will take up the District of Columbia Personal Protection Act which would guarantee the second amendment rights of District residents. For years American citizens in Washington, D.C., have had their right to self-protection denied them, and it is time to set things right. Washington residents are American citizens and, therefore, deserve the same right to bear arms, to defend themselves, as much as anyone else. The homes of this city will be safer when its law-abiding citizens are on a equal footing with its violent criminals.

Second, we will take up the Marriage Protection Amendment which would reaffirm the definition of marriage as the union between one man and one woman. The marriage issue, like too many issues these days, is being forced upon the American people by judicial activists overstepping their authority. Congress must assert itself. The voice of the people must be heard.

It is our job to make the laws in this country. And as easy as life would be for us if the most controversial bill we had to vote on was to rename a post office, that is not what we were elected to do. We were elected to deliberate over difficult issues, to come down on one side or the other and to ultimately defend our decisions in open debate before the American people.

That is how the framers wanted it. And this week, Madam Speaker, that is how it is going to be.

BUYOUT AND FDA

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized during morning hour debates for 5 minutes.

Mr. ETHERIDGE. Madam Speaker, I have just had a number of farmers leave my office this morning, and they are not real sure they are going to be farming this year. So I rise today because tobacco farmers, growers and allotment holders desperately need a tobacco buyout, and they expect Congress to pass one before leaving in October.

Without a buyout, approximately half of North Carolina's tobacco growers could go out of business this year. A buyout means a difference between bankruptcy and solvency, between being forced out of business and retiring with dignity, and between surrendering everything to creditors or having a legacy to leave to the next generation.

A buyout would pump almost $4 billion into rural North Carolina at a time when they are really hurting. This infusion of capital would launch our agriculture sector into a new era of growth and development and provide greater stability to those who wish to continue to farm.

Because the buyout is so critical to North Carolina's farm families and to the continued strength of North Carolina's agriculture sector, it is time for Congress to make the tough decisions necessary to ensure the buyout's success. Now, in the past several months, it has become increasingly clear that the ultimate success of a tobacco buyout is directly tied to the inclusion of FDA regulation.

Madam Speaker, tobacco growers do not want us to have a prolonged fight over FDA. That is what they have told me over and over again. They want a buyout today, and they are fully prepared to pay the price of FDA regulation to ensure and expedite the buyout package.

I have long opposed FDA regulation of tobacco, but let me state clearly, if inclusion of FDA regulation gets us to the goal of enacting buyout legislation before we leave town this year, so be it.

Madam Speaker, I know you are being asked by many people to separate FDA regulations from the buyout. They promise that a buyout can become law without FDA. Madam Speaker, I warn you here and now, if you choose that path and the buyout is defeated, either in the House or the Senate, for any reason, you and they will be responsible for that failure.

The Senate buyout/FDA amendment garnered an incredible 78 votes, more than enough to override a filibuster or overcome a veto. The Senate Republican leader and Senate Republican Whip have said FDA is needed for a buyout to become law, so have Republican Senators DOLE, DEWINE and MCCAIN. Today, we have seen one of the Senate conferees, the chairman of the Senate Committee on Health, Education, Labor and Pension, Senator GREGG, will insist that FDA remain a part of the buyout package.

Madam Speaker, tobacco growers and allotment holders are at the end of their rope. Failure is not an option. Congress must pass the buyout without further delay, and it is time to make the tough choices necessary to get it done.

Madam Speaker, let us do right by our tobacco-farming families. Let us stop making promises and start delivering results. Let us get the buyout to our farmers and quota holders before the election this year. They deserve nothing less.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair cautions all Members against making improper references to Senators.

IRAQI ELECTIONS MUST GO FORWARD

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, a country was looking for free, democratic elections. Yet, a violent insurgency controlled about one-third of the nation's territory. Insurgents mined roads to prevent transportation and potential voters had to dodge sniper fire just to vote. Yet people by the hundreds of thousands risked their lives to have the opportunity a chance to vote, a chance for freedom.

For those that may not recognize this piece of history, the year is 1982, and the country is El Salvador, and 2 years later the people of that country had to risk the same peril to vote. This situation sounds familiar, does it not.

I doubt many can forget the horrible atrocities committed during the Civil War in El Salvador that claimed over 75,000 lives. The insurgents in that day were no less ruthless than those at the interim government that Afghanistan and Iraq are facing. Violent efforts were increased before and on the day of election to prevent the people of El Salvador from choosing their destiny. The reason was simple. Elections, as pointed out in a recent New York Times article, ''suck the oxygen from a rebel army.''

Interim Prime Minister Allawi knows this as well as Afghanistan President Karzai. Prime Minister Allawi was on this floor last week and stated emphatically that despite the naysayers in the media, and the supporters of Senator KERRY, Iraq will have free elections next year. Yet, not a day goes by that some pundit or some strategist talks about conditions in Iraq and says that the country is not ready for elections.

However, Madam Speaker, I think it would be worthwhile for those who say they are experts to listen to the Iraqi people. According to some Arab news media reports and Iraqi blogs, only a small portion of Iraq is under control of the insurgents. We are talking about a country that is roughly the size of California, and only a small portion remains vulnerable to the insurgencies.

Allawi is right to move forward with the elections. Iraqis are beyond fed up with these terrorist acts and may surprise many with their resilience in the face of these attacks.

Look at the Iraqi police and National Guard. Despite being persistent targets of these extremists, Iraqi citizens continue to risk their lives to sign up for

the change to help bring peace to their nation.

I think these so-called experts on elections in Iraq and Afghanistan are in for a rude awakening. Afghanistan's elections are set for October 9. Also, next month, Iraqis will begin registering to vote with election scheduled for January of next year. Will it be difficult? Most definitely. Will the insurgents try to disrupt this process? Yes. We have already seen that they will increase their attacks.

But the fact is the insurgents are scared. They know that a legitimately elected leader can put an end to this illegitimate insurgency. An elected leader can offer his people peace, stability and prosperity. Insurgents can only offer hate, fear and death.

An elected leader can undermine an insurgency by reaching out and addressing the perceived ills for which they are supposedly fighting for, or expose their motives as pure extremism. An elected leader can transform his country for the better.

Madam Speaker, it will not happen overnight. It took years for El Salvador but it can happen. It is a task that the United States must continue to support without hesitation.

Let me refer to two other examples. Violence and unrest were prevalent in Indonesia. Yet, recently, Indonesia conducted its direct presidential elections, orderly, peacefully, without disruption to voters' access.

Finally, I think we can all remember the problems in Serbia with Milosovic and what happened with his military action. On June 13 and 27 of 2004 this year, Serbia held presidential elections which is a welcome change in the political direction of Serbia and its relationship with the international community.

Remember what Prime Minister Tony Blair said when he addressed this body. Here is his quote which I think rings a very positive note: ''How hollow would the charges of American imperialism be when these failed countries are seen to be transformed from states of terror to nations of prosperity, from governments of dictatorship to examples of democracy, from sources of instability to beacons of calm.'' He went on to say, ''Why America? The only answer is because destiny put her in this place in history at this moment of time and the task is ours to do.''

We must take these words to heart and stand with a universal toughness. Democratic institutions continue to spread in the world. They are our true defense against the illegitimate attempts of Islamic fanatics to force their own distorted views of the world.

[From the New York Times, Sept. 28, 2004]

THE INSURGENCY BUSTER

(By David Brooks)

Conditions were horrible when Salvadorans went to the polls on March 28, 1982. The country was in the midst of a civil war that would take 75,000 lives. An insurgent army controlled about a third of the nation's territory. Just before election day, the insurgents stepped up their terror campaign. They attacked the National Palace, staged highway assaults that cut the nation in two and blew up schools that were to be polling places.

Yet voters came out in the hundreds of thousands. In some towns, they had to duck beneath sniper fire to get to the polls. In San Salvador, a bomb went off near a line of people waiting outside a polling station. The people scattered, then the line reformed. ''This nation may be falling apart,'' one voter told The Christian Science Monitor, ''but by voting we may help to hold it together.''

Conditions were scarcely better in 1984, when Salvadorans got to vote again. Nearly a fifth of the municipalities were not able to participate in the elections because they were under guerrilla control. The insurgents mined the roads to cut off bus service to 40 percent of the country. Twenty bombs were planted around the town of San Miguel. Once again, people voted with the sound of howitzers in the background.

Yet these elections proved how resilient democracy is, how even in the most chaotic circumstances, meaningful elections can be held.

They produced a National Assembly, and a president, José Napoleón Duarte. They gave the decent majority a chance to display their own courage and dignity. War, tyranny and occupation sap dignity, but voting restores it.

The elections achieved something else: They undermined the insurgency. El Salvador wasn't transformed overnight. But with each succeeding election into the early '90s, the rebels on the left and the death squads on the right grew weaker, and finally peace was achieved, and the entire hemisphere felt the effects.

I mention this case study because we are approaching election day in Afghanistan on Oct. 9. Six days later, voter registration begins in Iraq. Conditions in both places will be tense and chaotic. And in Washington, a mood of bogus tough-mindedness has swept the political class. As William Raspberry wrote yesterday in The Washington Post, ''the new consensus seems to be that bringing American-style democracy to Iraq is no longer an achievable goal.'' We should just settle for what JOHN KERRY calls ''stability.'' We should be satisfied if some strongman comes in who can restore order.

The people who make this argument pat themselves on the back for being hard-headed, but the fact is they are naïve. They've got things exactly backward. The reason we should work for full democracy in Iraq and Afghanistan is not just because it's noble, but because it's practical. It is easier to defeat an insurgency and restore order with elections than without.

As we saw in El Salvador and as Iraqi insurgents understand, elections suck the oxygen from a rebel army. They refute the claim that violence is the best way to change things. Moreover, they produce democratic leaders who are much better equipped to win an insurgency war.

It's hard to beat an illegitimate insurgency with an illegitimate dictatorship. Strongmen have to whip up ethnic nationalism to lure soldiers to their side. They end up inciting blood feuds and reaping the whirlwind.

A democratically elected leader, on the other hand, can do what Duarte did. He can negotiate with rebels, invite them into the political process and co-opt any legitimate grievances. He can rally people on all sides of the political spectrum, who are united by their attachment to the democratic idea. In Iraq, he can exploit the insurgents' greatest weakness: they have no positive agenda.

Of course the situation in El Salvador is not easily compared to the situations in Afghanistan or Iraq. On the other hand, over the past 30-odd years, democracy has spread at the rate of one and a half nations per year. It has spread among violence-racked nations and to 18 that are desperately poor. And it has spread not only because it inspires, but also because it works.

It's simply astounding that in the United States, the home of the greatest and most effective democratic revolution, so many people have come to regard democracy as a luxury-brand vehicle, suited only for the culturally upscale, when it's really a sturdy truck, effective in conditions both rough and smooth.

LITTLE SAFETY IN BAGHDAD

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 5 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, let me begin on a note of agreement with my predecessor in the well. I do think what we are seeing in Serbia has been very encouraging. And I am glad that President Clinton persevered in doing that over the opposition of a large number of Republicans in this chamber who sought to prevent him from carrying out that policy. But I want to talk now about Iraq.

We went into Iraq, I thought, unwisely and unnecessarily. I believe that my vote against that was the right vote. But even those who voted for it have a hard time dealing with what has been one of the most incompetently executed major national security policies in the history of this country. And one sign of that is the consistently wrong predictions this administration has made.

They said that when we went into Iraq and when they won the war, and the military part was won very easily, despite what President Bush had earlier said, he inherited from President Clinton a superb military regime that won easily the military parts of the efforts in both Afghanistan and Iraq. But we were told that once the military part was over, the people of Iraq would be so welcoming, that it would be fairly easy. Indeed, this administration punished General Shinseki for predicting that it would be a difficult occupation. And, of course, it was a very difficult occupation.

But then we were told, well, when we capture Saddam Hussein that will take the energy out of the resistance and things will get calmer. And we captured Saddam Hussein, fortunately; but unfortunately things did not get better. And then we were told, well, we will turn over the government of Iraq to an Iraqi set of officials and then things will get better. And we turned over the government to an Iraqi set of officials and things have gotten worse.

Now, we are accused by those who do not think debating public policy is appropriate in a democracy. Apparently, they have this very odd idea that the more important the issue, the less appropriate it is to debate it. Democracy

in their minds should be conducted about trivia; but when we are talking about important issues of war and peace and the lives of our young people and the national security, somehow it becomes inappropriate to engage in the democratic debate that is at the nature of our governance.

But we have an additional witness to the argument that Iraq remains sadly unsafe in many places for this government and its supporters, the United States government. And we are not just talking about Fallujah or the Sunni Triangle. We are talking about Baghdad. We recently had, and I read this in the New York Times last Thursday, a wire service article, the United States government last week, or at least I learned of it last week, recently gave asylum to a 15-year-old Iraqi girl who asked for asylum on the ground that her support for the American military made it unsafe for her to live in Baghdad.

In other words, we now have an official recognition by the United States immigration officials that being a supporter of the American military in Baghdad is so dangerous as to justify the extraordinary act that is a grant of asylum. This is not critics of the administration saying that. This is not Fallujah. This is Baghdad. This is a sad statement, and I am terribly troubled by this. I am glad we gave this young woman asylum given those circumstances.

A young woman who expressed her support for the American military now tells us that it is unsafe for her to go to Baghdad. Well, if in fact things are calmer, let us talk about an election. They are going to have an election throughout the country. Baghdad is one of the places where we are told things are fairly secure.

Well, if it is secure enough to have a free election, why is it so insecure as to say that a 15-year-old has to be given asylum in the United States because it is not safe for her to remain in her own country because she sided with America.

What is clear is that the result of the Bush administration's Iraqi policy has been a sad deterioration, in my view, of the true national security policy of this country; and the misinformation, the self-delusion, the inaccuracy, the infighting, the inconsistency that have marked this policy have resulted in a very, very sad situation. And as long as the President and his chief advisors insist on defying reality and blaming the messengers who bring forward the evidence of this sad reality, it is unlikely that things will get better. The self-deluded are rarely the self-correcting.

[From the New York Times, Sept. 23, 2004]

U.S. ASYLUM FOR IRAQI GIRL, 15

WASHINGTON—A 15-year-old Iraqi girl who claimed persecution in Baghdad because her family cooperated with the United States military has been granted political asylum here. The case is believed to be among the first instances of an Iraqi seeking political asylum in such circumstances.

The girl and her mother, who asked not to be identified for fear of retaliation against other family members still in Iraq, received the letter on Thursday from the Citizenship and Immigration Services, according to Jeff Sullivan, their Washington lawyer. The girl came to the United States last year with her mother for treatment of a cancerous growth in her cervix. The two subsequently applied for political asylum. The mother is pursuing asylum for the father and three other children still in Baghdad, Mr. Sullivan said.

FREE ELECTIONS FOR IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Madam Speaker, I find it very interesting and probably somewhat unusual that during morning hour debate three speeches in a row are on the exact same topic.

I listened to the statement of my friend, the gentleman from Florida (Mr. STEARNS). I just listened to the gentleman from Massachusetts (Mr. FRANK). And I will state that it is important for us to spend some time engaged in debate and focusing on the very important elections that are going to be taking place on October 9 in Afghanistan, and then as was said earlier, six days later the registration process begins for elections that are scheduled to do take place in Iraq this coming January.

The gentleman from Florida (Mr. STEARNS) earlier referred to an op-ed piece that actually is what led me to come to take the well this afternoon and that is a piece by David Brooks in today's New York Times in which he talked about the challenge that lies ahead as we deal with the prospect of elections, as I said, on October 9 in Afghanistan and then elections to take place in Iraq. But he used a historical context which I think is very important.

That historical context does go back to March of 1982 when we saw the elections take place in El Salvador. Now, the gentleman from Massachusetts (Mr. FRANK) and I were elected to the House together in 1980. And during that decade we saw great struggles take place, really throughout the world as we saw nations move from totalitarianism to self-determination, political pluralism. Of course, we saw that in the latter part of the 1980s in Eastern and Central Europe. Really throughout most of that decade we saw the struggle take place in Central America, in primarily Nicaragua and El Salvador.

In El Salvador it was in large part a civil war, a civil war that was fueled with resources that came from Communists in the region and from the Soviet Union, but it still was an upheaval that was taking place. And yet in 1982, as Mr. Brooks pointed out in his piece today, with 75,000 lives being lost, an attack taking place on the national palace, people actually bombing those in line standing to vote, elections proceeded.

There was a statement that he has in this piece in which he says that one person who was in line said, ''This nation,'' in referring to El Salvador, ''may be falling apart, but by voting we may help to hold it together.''

Now, it is true that things have not gone perfectly in the war to liberate the people of Iraq. Everyone acknowledges that. But this is a war. There are no guarantees. There are no there is no absolute certainty. But we do know this: Saddam Hussein is no longer in power; and if he were still in power, if he were still in power he would be providing, as the international terrorist that he was, $25,000 to the families responsible for the bombings of buses that took place in Israel just a few weeks ago. And he would be involved in the kinds of repressive policies and the threat to destabilize his region and other parts of the world that he had been involved in.

We do know that we brought an end to that. There still are terrorist forces in Iraq. But I will say, Madam Speaker, that as we head to this election on October 9 in Afghanistan and then in January in Iraq, it is important to know that it is not going to be a perfect election.

We learned in 2000 that democracy is a work in progress. But as we begin with these elections in October and January, it is very important to note that that will be the beginning point as we move down the road towards the right of people to choose their own leaders, self-determination, political pluralism, the rule of law, those democratic institutions which we have a tendency to take for granted here in the United States.

So I would like to say, let us learn from history. Standing firm to proceed with some kind of election is the right thing for us to do. And I am very pleased that this administration and a majority in this United States Congress are dedicated to doing just that.

DISARRAY ON IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Madam Speaker, how can we expect President Bush and his administration to win the war in Iraq if they continue to deny the realities our troops and the Iraqi people face on the ground?

Last week provides several examples of a Bush administration in disarray: Cabinet officials contradicting each other on a daily basis and a President who continues to live in denial. Not only is the President in denial, but his hand-picked Iraqi Prime Minister appeared to be reading off the exact same page when he visited Washington last week.

During a press conference in the Rose Garden President Bush claimed that ''these have been months of steady progress.'' And in this House chamber last week Prime Minister Allawi echoed the President, reminding my colleagues ''not to forget the progress we are making in Iraq.''

President Bush and Prime Minister Allawi can say we are making progress in Iraq, but the facts simply do not support their claims. Attacks against Iraqis and U.S. military personnel over the last couple of weeks are dramatically higher than they were in the weeks after the handover of power to the interim Iraqi government. Today on average 70 attacks occur on a daily basis, compared to 40 to 50 in July. Over the past 2 weeks these attacks have killed more than 250 Iraqis and 29 U.S. military personnel. How in the world is that progress, Madam Speaker?

President Bush also ignores the real dangers surrounding the scheduled Iraqi elections in January. At his press conference last week, the President said the elections are still possible based on the situation on the ground. His reason is ''because the Prime Minister told me they are.''

Well, neither the President nor the Prime Minister could provide any evidence to support their steadfast belief that the January elections must proceed despite the realities on the ground.

That same day, Iraq's most powerful Shiite leader threatened to withdraw his support for the elections. And UN Secretary General Annan also voiced concern that elections may need to be delayed due to security concerns on the ground.

Madam Speaker, even President Bush's cabinet is providing contradictory information regarding the January elections. Last week at a Senate hearing, Defense Secretary Rumsfeld raised the possibility that some areas of Iraq might be excluded from voting in January. Secretary Rumsfeld said, ''Let's say you tried to have an election and you could have it in three-quarters or four-fifths of the country, but in some places you couldn't because the violence was too great. Well, so be it. Nothing's perfect in life.''

That is what Rumsfeld said. Image that.

How could Secretary Rumsfeld conclude that the Iraqi people would consider such an election legitimate if a significant portion of the Iraqi people were not allowed to participate?

Fortunately, there has one member of the President's Cabinet that is not afraid to put aside the President's talking points and speak the truth. This weekend, Secretary of State Powell refuted the President's claims that progress is being made in Iraq. Not only did Secretary Powell say the insurgency in Iraq is getting worse, he also supported Senator KERRY's contentions that the U.S. occupation of Iraq has increased anti-American sentiment in Muslim countries.

Secretary Powell also refuted Secretary Rumsfeld's outrageous statements about the January election. What Powell said is, ''For the elections to have complete credibility and stand the test of international scrutiny, I think what we have to do is to give all the people of Iraq an opportunity to participate.''

Now, I obviously agree with what Secretary Powell says, but it is no wonder the situation in Iraq is so tenable. We have a President who either refuses to believe there is a problem in Iraq or does not think it is a problem to mislead the American people about how serious the situation currently is.

We also have an administration that never seems to be on the same page. One cabinet official is saying one thing while another one is saying just the opposite.

So, Madam Speaker, this is no way to lead a war, clearly. It is a flawed rationale for the war to begin with, in failing to have a plan once Baghdad fell, and President Bush's record essentially has not been good. It has been a failure.

He failed to provide the troops with the equipment they needed, and he also failed to implement his reconstruction plans in Iraq, and he has left, essentially, Iraq in chaos. I do not think the world can afford another four years of this failed leadership on behalf of the Bush administration.

HONORING IRVING HARRIS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentlewoman from Connecticut (Ms. DELAURO) is recognized during morning hour debates for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise to honor the extraordinary legacy of a dear friend who passed away this past week. An advocate, philanthropist and leading voice for children, Irving Harris left an indelible mark on our society.

Recognizing early on that the key to children's success lay in their most formative years, birth through three. Inspiring, developing and supporting scores of programs and organizations dedicated to improving the lives of disadvantaged youngsters across the Nation, he founded the Erickson Institute, a child development graduate school and the Ounce of Prevention Fund, a public-private partnership that created and promoted community-based initiatives to improve early childhood development.

He also helped create and fund the Yale Child Study Center which is nationally recognized as leaders in the field of children's trauma, addressing those children who have been exposed to violence.

Irving was also a leader in the development of Zero to Three, the national center for infants, toddlers, and families, whose work to support families and promote the healthy development of babies and toddlers had a tremendous impact in communities across the Nation.

Irving's work rightly brought him national recognition as a leading voice for children across the country.

Irving Harris was one of those rare individuals with roots in the world of business and finance, who used his hard-won wealth and influence to help others less fortunate. His work and his diligence and dedication was not only remarkable but it was unceasing, a reflection of all that we strive to be. His sincerity was marked by the principles he instilled in his own family, in his children and grandchildren who today carry on his work on behalf of the other children of America.

Through education, public policy development, grant making and advocacy, Irving Harris' vision and leadership earned him recognition and many honors and awards over the years. He served many organizations, including the National Commission on Children and the Carnegie Corporations' New York task force on meeting the needs of young children.

It was for me personally an enormous privilege to work with Irving Harris over the years, and working now with his son, Bill, and with his grandson, David. Irving Harris knew that our young people represent the future and that we as a community and a Nation must give them the tools that they need in order to succeed. He recognized this simple fact many years ago and dedicated his life to fulfilling that important goal.

I say today, thank you, Irving, for the difference that you have made in this country, and the millions of lives that you have made better through your vision, your passion, and your generous spirit of mind. You have been an inspiration to all of us.

Today my thoughts and my prayers and love are with the Harris family.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 6 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the SPEAKER pro tempore (Mr. ISSA) at 2 p.m.

PRAYER

The Rev. Thomas K. Spence, Jr., Retired Pastor, Presbyterian Church, Sanford, North Carolina, offered the following prayer:

What do You require from us, O Lord? Is it not to do justice, to love kindness, and to walk humbly with

You? Show us what justice and kindness mean in a broken and troubled world, where hunger, violence, and oppression are so pervasive. Teach us what it means to be humble in a world where we take ourselves too seriously and where wisdom and truth are often scorned.

You gave these men and women such noble intentions when they first took the oath of office. Put it into their hearts to be more than good Republicans and good Democrats, O Lord. Let them be lovers of justice and peace. Do not let them become weary in well doing. Renew their strength when they labor long hours. Lift their hearts when they are discouraged. When their vision fails, keep before them the ideals that have made us a great Nation. Let them be faithful and steadfast in all their labors, that Your benediction may rest upon them all. We pray in the name of all that is holy.

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 North Carolina (Mr. ETHERIDGE) come forward and lead the House in the Pledge of Allegiance.

Mr. ETHERIDGE led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4818. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4818) ''An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCONNELL, Mr. SPECTER, Mr. GREGG, Mr. SHELBY, Mr. BENNETT, Mr. CAMPBELL, Mr. BOND, Mr. DEWINE, Mr. STEVENS, Mr. LEAHY, Mr. INOUYE, Mr. HARKIN, Ms. MIKULSKI, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD, to be the conferees on the part of the Senate.

H.R. 4850. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4850) ''An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DEWINE, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. STEVENS, Ms. LANDRIEU, Mr. DURBIN, and Mr. INOUYE, to be the conferees on the part of the Senate.

WELCOMING THE REV. THOMAS K. SPENCE, JR.

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

Mr. ETHERIDGE. Mr. Speaker, I rise today with great pride to introduce and present to this august body the Reverend Thomas Spence as today's Guest Chaplain in the U.S. House of Representatives.

Reverend Spence is the pastor of Leaflet Presbyterian Church, my home church in Broadway, North Carolina; and I am honored he has been with us today in the people's House. Reverend Spence possesses rare eloquence; and as a long-time congregant and friend, I can tell Members he is a unique individual whose interest and activism stretches far more broadly than his congregation. He has truly lived a life according to Jesus' example to tend to the least among us.

Like me, Reverend Spence grew up on a farm in rural North Carolina, he in Harnett County; and I grew up in the adjacent county of Johnston. The life lessons one learns growing up on a working farm shape your world view and instill what we refer to as good North Carolina values of hard work, faith in God, love of family and friends, and devotion to duty to those around us and to our world as a whole. Reverend Spence has lived North Carolina values every day of his life and has served the people of his congregation with great distinction and accomplishment. I am pleased, proud, and honored to introduce North Carolina's own Reverend Thomas Spence to the House.

BIDDING FAREWELL TO AMBASSADOR JAZAIRY

(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, it is with great sadness that I rise today to share with my colleagues that Ambassador Idriss Jazairy of Algeria will be leaving us soon at the end of a very successful tour of duty in the United States.

It has been a privilege working with this gentleman as Algeria's ambassador to the United States for the past 4 years. His eloquent professionalism, great confidence, and his deep care for his family and country have all been reflected in his life and service here.

Ambassador Jazairy is a true diplomat. He builds bridges and facilitates reconciliation. He has been an eloquent spokesman for his country and the causes of peace and goodwill in the world. He, indeed, is what one would call a peacemaker. He represents his nation's interests with great dignity and has been a wonderful man to work with and call a friend. We will miss him.

Mr. Speaker, I wish the ambassador the very best as he begins his new tour of duty in Geneva as an ambassador to the United Nations, and hope our paths will cross soon.

REMEMBERING NEW MEXICO'S WAR DEAD

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

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to the men from New Mexico who have died in Iraq. Five New Mexicans and more than 1,000 American military servicemen and -women have made the supreme sacrifice for their Nation on the battlefields of Iraq.

The five are Lance Corporal Christopher Ramos of Albuquerque; Sergeant Moses Rocha of Roswell; Sergeant Lee Duane Todacheene of Farmington; Specialist James H. Pirtle of La Mesa; and Sergeant Tommy L. Gray of Roswell. All five have been part of the ultimate sacrifice.

No words can ever express adequately the gratitude and reverence that Americans feel for these men. Nor can we ever repay the debt incurred to them and their families, whose anguish can only inadequately be tempered by a grateful Nation.

Mr. Speaker, I ask my colleagues to join me in remembering that five New Mexicans and more than 1,000 fellow Americans stood and fell for all of us. My prayers go out to the families of these fallen heroes, and I hope they know this country honors their sacrifices and recognizes their passing.

APPLAUDING CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

(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, it is vitally important that our children have an understanding of the fundamental principles and values of our constitutional democracy.

Last September, the first annual Congressional Conference on Civic Education was held. The conference was

sponsored by the Alliance For Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

The conference established State delegations that returned to their States to advocate for better civic education. I would like to recognize Cindy Coker and Paul Horne, the facilitators of the South Carolina action team, for their efforts to improve civic education in South Carolina in the tradition of Sara Bookhart at the High School of Charleston in 1964.

The South Carolina action team activities include advocating civic education programs and curricula, hosting a conference on the civic mission of schools, participating in the review of social studies standards, which includes civic education, and providing input on the value of civic education on the State's school report card.

I ask my colleagues to join me in thanking all of the participants of the Congressional Conference on Civic Education and wishing them further success during their next conference in December.

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

REPORTS DISCOVERED ON IRAQ

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

Mr. PALLONE. Mr. Speaker, today the New York Times uncovered two classified reports prepared for President Bush in the months leading up to the war in Iraq. These documents warned the President that ''an American-led invasion of Iraq would result in a deeply divided Iraqi society prone to violent internal conflict.'' Officials told the Times that a second report warns of a possible insurgency, saying the rogue elements from Saddam Hussein's government could work with existing terrorist groups or act independently to wage guerrilla warfare.

Sounds exactly like the situation our U.S. troops face today in Iraq. Unfortunately, President Bush and his administration did not listen to these warnings. Vice President CHENEY said we would be greeted with flowers, and President Bush egged insurgents on by telling them to ''bring it on.''

Today's report is just another example of the President's failed policies in Iraq. He had a flawed rationale for going to war. He did not have a plan to win the peace. He failed to implement his reconstruction plans for Iraq, leaving the country in chaos. And now we learn that he ignored intelligence estimates that warned of problems after the fall of Baghdad. The world cannot afford another 4 years of this failed leadership.

POLL FINDS MEDIA BIAS

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

Mr. SMITH of Texas. Mr. Speaker, this week no single media organization will receive the media bias award. However, the public has made clear its views of the media as an institution. The American people feel standards of journalism have eroded. Advocacy has replaced objectivity.

After conducting an opinion poll, the Gallup organization recently found that fewer than half of Americans have confidence in the media's ability to fairly report the news. And an astounding three times as many people believe the media is more liberal than conservative. To quote Gallup, ''Media Credibility Reaches Lowest Point in Three Decades.''

Mr. Speaker, what we should expect from the media, as both Americans and consumers of news, are the facts, objectively and fairly reported.

HEALTH CARE COSTS

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

Ms. DELAURO. Mr. Speaker, in the last 4 years the Republican majority of this House and the Bush administration have failed to address the skyrocketing cost of health care. Today's news shows this problem has rapidly deteriorated into a crisis.

Let me quote The Washington Post: ''Higher Costs, Less Care. Nationwide, workers' cost for health insurance has risen by 36 percent since 2000, dwarfing the average 12.4 percent increase in their wages since President Bush took office.''

In a study by Families USA, they found the cost of health care increased three times what the average household's earnings have increased since the year 2000; 14.3 million Americans are now spending more than a quarter of their income on medical costs, an increase of 2.7 million people. There are 5 million fewer jobs providing health benefits, and small businesses are seeing the sharpest decline. This is a problem that affects every middle-class family in the Nation.

Today, we have cancer patients who determine for themselves whether their chances of survival are good enough to invest in the more effective and expensive treatments because they do not want to burden their family with costs.

Mr. Speaker, we are in the midst of a health care crisis. This administration and this Republican majority have nothing to say about it and have thwarted efforts to bring down those costs.

□ 1415

FREEDOM OF SPEECH IN THE PULPIT

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

Mr. PEARCE. Mr. Speaker, this weekend I attended the dedication of a new sanctuary service at Church on the Move in Roswell, New Mexico. As I sat there watching the efforts of Pastor Troy Smotherman come to a culmination of just building his congregation and extending it, I thought of the labors of all pastors across the country, like Dr. Dean Mathis whom my wife and I have studied with for over 20 years, and realize that the work of these good and decent individuals to exhort their members toward justice, kindness, peace, faith, love and just quiet living of decent lives is indeed a tribute to this Nation.

It is entirely appropriate that, at this point where we are going to discuss the Federal marriage amendment on the floor of the House in front of the people, that we recognize that these quiet ministers building congregations across the country do not have the right or the freedom to speak from their pulpits about this very important subject.

Mr. Speaker, I would recommend and request that the House and the Senate consider the language that stifles conversation from the pulpits of this Nation.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. ISSA) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 28, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 28, 2004 at 9:37 a.m.:

That the Senate passed without amendment H. Con. Res. 161.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following Member of the House to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon:

Mr. THORNBERRY, Texas.

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 after 6:30 p.m. today.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2363) to revise and extend the Boys and Girls Clubs of America.

The Clerk read as follows:

S. 2363

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

SECTION 1. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking ''1,200'' and inserting ''1,500'';

(B) by striking ''4,000'' and inserting ''5,000''; and

(C) by striking ''December 31, 2005'' and inserting ''December 31, 2010'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''2002, 2003, 2004, 2005, and 2006'' and inserting ''2006, 2007, 2008, 2009, and 2010''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''1,200'' and inserting ''1,500''; and

(ii) in subparagraph (B)—

(I) by striking ''4,000'' and inserting ''5,000''; and

(II) by striking ''2007'' and inserting ''2010''; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $80,000,000 for fiscal year 2006;

''(B) $85,000,000 for fiscal year 2007;

''(C) $90,000,000 for fiscal year 2008;

''(D) $95,000,000 for fiscal year 2009; and

''(E) $100,000,000 for fiscal year 2010.''.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2363 currently under consideration.

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

There was no objection.

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

Mr. Speaker, I support this legislation and urge my colleagues to vote for S. 2363, a bill to revise and extend the authorization of appropriations for the Boys and Girls Clubs of America. Both the Senate Committee on the Judiciary and the full Senate passed this bill without amendment by unanimous consent. Following Senate action, the bill was referred to the House Committee on the Judiciary where the bill was reported favorably by voice vote without amendment.

The Boys and Girls Clubs of America had its first beginnings almost 150 years ago. The first club was organized in 1860 by a group of women who believed disadvantaged boys should have access to a positive, structured environment outside of school. By 1906, several boys clubs had joined together and formed the Federated Boys Club in Boston. In 1956, the Boys Clubs of America received a congressional charter and celebrated its 50th anniversary.

Recognizing that girls are also a vital part of the Clubs' membership, the name was changed to the Boys and Girls Clubs of America in 1990.

The Boys and Girls Clubs of America continue to provide a positive learning environment for children throughout this country. The Clubs have numerous nationally recognized programs that address issues pertinent to today's youth. More than 25 programs are available to youngsters on topics including education, leadership development, the arts and substance-abuse prevention. Of the several million children that benefit from the Boys and Girls Clubs of America, a large majority live in our inner cities and urban areas. These programs are essential to providing resources and nourishing skills necessary for young people to become successful, productive adults.

The Economic Espionage Act of 1996 established a program to provide Department of Justice grant support for starting new Boys and Girls Clubs in distressed areas. The current version of the law calls for the establishment of 1,200 new clubs by the end of 2005. S. 2363 will increase that number by 300 to a total of 1,500. Current law also calls for a goal of 4,000 total clubs by January 1, 2007. S. 2363 increases that goal to at least 5,000 such facilities in operation by January 1, 2010.

Additionally, the bill extends through fiscal year 2010 the authority of the director of the Bureau of Justice Assistance of the Department of Justice to make grants to the organization to establish such facilities. It authorizes appropriations of $80 million for fiscal year 2006 and increasing each year by increments of $5 million, reaching $100 million in fiscal year 2010.

In an effort to further the positive mission of the Boys and Girls Clubs of America, I urge my colleagues to join me in supporting this legislation.

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

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

I rise in support of S. 2363, legislation extending the authorization for annual grants from the Department of Justice to the Boys and Girls Club of America. This legislation authorizes the Boys and Girls Club of America to receive funds through 2010 at $80 million for fiscal year 2006, $85 million for 2007, $90 million for 2008, $95 million for 2009, culminating in $100 million for fiscal year 2010. It also authorizes an increase in the number of clubs in existence to 5,000 by 2010 which will increase the number of children served to over 5 million.

Founded in 1860, the Boys and Girls Club of America has been in existence for over 100 years and provides young people with a positive alternative to drugs, gangs and crime. At clubs across America and throughout the world at our military bases, youth ages 6 to 18 find a positive adult influence and a safe environment in which to learn and grow. There are currently 3,500 clubs that serve 3.6 million children.

It is with firsthand knowledge that many of us can attest to the success and opportunity provided to the youth that participate in the Boys and Girls Club programs. The Boys and Girls Clubs of Burbank, Pasadena and West San Gabriel Valley serve children in my district, and I have had the opportunity to visit and see firsthand the great work of this organization. In fact, many of the young people at this fine Boys and Girls Club organization in my district provided cards and letters and posters which I recently had the chance to deliver, along with my colleague from Guam (Ms. BORDALLO), to our troops serving in Iraq, Afghanistan and elsewhere.

I have seen in the computer training in the Burbank facility, the recreational activities, the arts and crafts, what a tremendous environment the Boys and Girls Club can provide for young people. The Boys and Girls Club dinner in Burbank every year is one of the best attended in the city. The last time I visited the Boys and Girls Club in Burbank, I got a very superb lesson in foosball from some very talented 6-, 7- and 8-year-olds.

S. 2363 is necessary to continue the much-needed mission of the Club, and we know all too well the consequences of not providing such preparation. While it costs taxpayers $25,000 to $75,000 per year to keep one young person in jail, it costs just $200 per year to provide Boys and Girls Club programming for one youth.

I want to compliment my chairman and my colleagues for their sponsorship of this legislation and urge my colleagues to support this worthwhile endeavor.

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

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

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time. I am not here to argue about the value of the Boys and Girls Clubs. In fact, they do very good work in my home State of Arizona, a lot of good work.

What I am here to raise a concern about is the increased level of authorization in this bill. Over the life of this authorization, 2006 to 2010, we will be authorizing $450 million for the Boys and Girls Clubs. Unless a vote is called here today, this will go through without any vote in the Senate or the House as to this increased authorization. In an era where we are facing increased deficits and a huge debt, I think we owe it to our constituents and others to vote on measures like this that spend so much money.

In the year 2010, there will be nearly $100 million authorized for this purpose. That is a fivefold increase over the original amount authorized in the 104th Congress. That is significant. If we were not increasing the authorization, I do not think we would have many people wanting to call a roll call vote on this or even raising a red flag, but we are here. I would urge defeat of this measure until we can come in with the same level of authorization and not an increase.

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

I appreciate the comments from the gentleman from Arizona. But, of course, there is an opportunity cost for not investing in our youth as well. If it costs $200 to keep a youth productively engaged in a Boys and Girls Club, but it costs 100 times that to incarcerate a youth, I think the decision becomes very simple: $100 million invested in the Boys and Girls Club to keep countless tens of thousands of children gainfully occupied after school, on weekends, versus potentially billions of dollars in corrections costs.

I have seen in my own State of California the benefit that we have derived from a proactive juvenile justice policy. Working with one of my colleagues in the State legislature, Tony Cardenas, I introduced legislation some years ago to invest as much in preventive programs as in suppression of crime, and we have found that proactive preventive work has paid enormous dividends, has saved us on the back end countless costs of incarceration and countless victims of crime.

This is an incredibly worthwhile investment. It is an investment in our most cherished resource, that of our young people.

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

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

Mr. Speaker, to begin, let me associate myself with the remarks of the gentleman from California. He is dead right in saying that an investment in groups like these will pay off in saving a big bundle of money, of the costs of dealing with kids who get in trouble. These types of prevention programs and effectively giving an outlet for young people to associate with one another during afterschool and weekend activities is something that should be encouraged because it is cost-effective.

But I would like to add one other point in response to the comments of my good friend from Arizona. If this bill is voted down today, the money will go to the Boys and Girls Clubs anyhow because the appropriators will continue to fund those requests through the State-Justice-Commerce appropriation bill. Voting down this bill is not going to stop the appropriators from appropriating money to the Boys and Girls Clubs. The way that it gets stopped is the defeat of the relevant appropriation bill.

But if the authorization for the Boys and Girls Clubs is permitted to expire, then the authorizing committees, the Judiciary Committee in this House and the other body, will lose a valuable tool to do oversight over the Boys and Girls Clubs to make sure that this money is being effectively spent. Unauthorized programs are basically oversight-free programs. The consequence of the gentleman from Arizona, while well-intentioned, succeeding in bringing this bill down is going to mean less congressional oversight over how this money is being spent. That is a step backwards, and that is why this bill ought to pass.

Mr. Speaker, I ask for an ''aye'' vote.

Mr. KILDEE. Mr. Speaker, I urge my colleagues to support S. 2363, to revise and extend the Boys and Girls Clubs of America. Congress first granted the Boys and Girls Clubs a charter back in 1991, but these clubs have been helping their communities for nearly one hundred years.

There are currently 3,500 Boys and Girls Clubs across America, serving over 3.6 million children, ages 6–18.

Over 70 percent of those children who benefit from the Boys and Girls Clubs of America live in America's inner cities. Almost half of the club members come from single parent homes.

The clubs offer young people a safe place to learn and grow in the clubs.

This bill authorizes the clubs to receive funds through 2010 and increases the number of clubs in existence. By 2010, there will be 5,000 clubs nationwide serving over 5 million young people.

I urge my colleagues to support this important reauthorization.

I would also like to recognize Thomas (T.J.) Rancour of Bay County, Michigan, who last week won the Boys and Girls Club National Youth of the Year Award.

T.J. won the national title after delivering an excellent speech about how the Boys and Girls Club has changed his life.

T.J. overcame many personal obstacles in life because of his determination and perseverance. T.J. has a bright future ahead of him because he has a good heart and a good head.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of S. 2363, the Boys and Girls Clubs Reauthorization. I am pleased to support a measure that would not only ensure the continued existence of this already successful organization, but that would increase its authorized funding to $100 million over the next 6 years and allow for the establishment of an additional 1,500 facilities. I thank my colleagues, Chairman SENSENBRENNER and Ranking Member CONYERS, for their much-needed leadership and attention to this issue affecting children throughout our country.

My connection to the Boys and Girls Clubs of Rhode Island begins on a personal level. My mother and father worked hard to create a positive and nurturing home environment for their four children and extend that warmth, generosity, and caring as foster parents to over 20 other children. Yet at the same time, my mother recognized that there were countless children in Rhode Island for whom the home was not a positive place, and she became a founding member of the Boys and Girls Clubs in my hometown of Warwick.

Today, the Boys and Girls Clubs of Warwick represent one of the few safe havens managed by caring adults where school-aged children can avoid the dangers of the street and the pitfalls of an unsupervised home. In Warwick, and throughout America, the Boys and Girls Clubs provide invaluable programs on education, leadership, the arts, and alcohol and drug prevention.

Again, I thank my colleagues for their continued support of the Boys and Girls Clubs of America, and I urge quick passage of this bill.

Mr. REYES. Mr. Speaker, I rise today in strong support of S. 2363, to revise and extend the authorization for the Boys and Girls Clubs of America.

For almost a century, the Boys and Girls Clubs of America have provided underprivileged youth across our country with a safe environment in which they can grow and learn to become well-rounded, responsible, and productive citizens. These youth are surrounded by caring adults who encourage them to reach their fullest potential and provide them with a range of experiences to enhance their lives and build character. This organization is a very worthy and positive influence in the lives of many underprivileged young people.

My district has greatly benefitted from the Boys and Girls Clubs of America. For the last 75 years, this organization has provided thousands of El Paso youths with programs dedicated to their educational and social well-being. El Paso is fortunate to have five locations throughout the community, all led by an exemplary professional staff. The authorization of additional Boys and Girls Clubs facilities throughout the country would be a positive step toward ensuring a bright and hopeful future for our youth. Organizations such as the Boys and Girls Clubs of America should always be able to count on our support, for they are instrumental in shaping our country's future.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the legislation sponsored by my colleague, Mr. HATCH of the Senate on April 29, 2004.

As Chair of the Congressional Children's Caucus, it pleases me to see this bi-partisan legislation move through Congress with such success despite the President's request for a reduction of the program by $20 million for fiscal year 2005 in his budget.

Since 1998, Congress has worked to increase support for the Boys and Girls Clubs from $20 million to $80 million this year. As a direct result of this commitment, we now see 3,300 clubs in all 50 States that serve more than 3.6 million young men and women. The legislation that we consider now, S. 2363, calls for the establishment of 1,500 new clubs by the end of 2005 with a goal of 4,000 total

by January 1, 2007 versus the current law that calls for the establishment of 1,200 new clubs for a total of 5,000 by that time. Furthermore, this bill's extension through fiscal year 2010 of the Director of the Bureau of Justice Assistance's authority to make grants to the clubs will allow this proposed growth to happen.

The mission statement of the Boys and Girls Club of Greater Houston is:

> to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, caring and responsible citizens. To [reach] children at an early age and [provide] positive activities and encouragement, . . . [providing] a compelling alternative to youth crime, gang membership, drugs, and other negative influences that effect our youth today.

The result of this important mission is to help the children of Houston to: Enjoy their interests; nurture their talents; dissolve their prejudices; express their personality; develop friendships; build self esteem; contribute to society; and achieve personal success.

This great organization espouses the philosophy of author James A. Autry in his book entitled Servant Leader to build the foundation of true leadership by first learning to serve your peers. By learning to become a functional part of the group, these young men and women obtain the necessary tools to develop into effective leaders who really understood how best to guide the team to success.

The Boys and Girls Club of Greater Houston began in 1951 as a project led by the Variety Club of Houston and the vision of R.E. "Bob" Smith and George Strake, Sr. This branch of the organization transformed from the Variety Club to what is known as the Boys and Girls Clubs of Greater Houston when the Rotary Club reorganized its corporate structure in 1989. I also served as a Board member of the Houston Boys and Girls Club in the past.

Fortunately, the branch opened it eighth location in Fort Bend, Texas, named the Fort Bend unit in 2002, and within two months, the location grew to over 2,500 members.

Specific programs offered by the Greater Houston Boys and Girls Clubs include: Character & Leadership—Education and Career Development; Health and Life Skills; the Arts; and Sports, Fitness and Recreation.

Therefore, it is through the fortification of the mind and the body that this organization empowers our young men and women. By offering this service in addition to or in lieu of that provided by the parents, we ensure that our children are able to follow the leadership tract suggested by author James A. Autry in Servant Leader.

Mr. Speaker, I wholeheartedly support S. 2363 and would encourage my colleagues to join me.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2363.

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. FLAKE. 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.

□ 1430

TITLE 46 CODIFICATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4319) to complete the codification of title 46, United States Code, ''Shipping'', as positive law, as amended.

The Clerk read as follows:

H.R. 4319

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 ''Title 46 Codification 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. Title analysis.
Sec. 3. Subtitle I of title 46.
Sec. 4. Subtitle II of title 46.
Sec. 5. Subtitle III of title 46.
Sec. 6. Subtitle IV of title 46.
Sec. 7. Subtitle V of title 46.
Sec. 8. Subtitle VI of title 46.
Sec. 9. Subtitle VII of title 46.
Sec. 10. Subtitle VIII of title 46.
Sec. 11. Maritime Administration.
Sec. 12. Amendments relating to Maritime Security Act of 2003.
Sec. 13. Amendments to partially restated provisions.
Sec. 14. Additional amendments to title 46.
Sec. 15. Conforming amendments to other laws.
Sec. 16. Legislative construction and transitional provisions.
Sec. 17. Repeals.
Sec. 18. Effective date.

SEC. 2. TITLE ANALYSIS.

The title analysis of title 46, United States Code, is amended to read as follows:

''Subtitle	*Sec.*
"I. GENERAL	***101***
"II. VESSELS AND SEAMEN	***2101***
"III. MARITIME LIABILITY	***30101***
"IV. REGULATION OF OCEAN SHIPPING	***40101***
"V. MERCHANT MARINE	***50101***
"VI. CLEARANCE, TONNAGE TAXES, AND DUTIES	***60101***
"VII. SECURITY AND DRUG ENFORCEMENT	***70101***
"VIII. MISCELLANEOUS	***80101".***

SEC. 3. SUBTITLE I OF TITLE 46.

Title 46, United States Code, is amended by inserting after the title analysis the following:

"Subtitle I—General

''Chapter	*Sec.*
"1. Definitions	***101***
"3. Federal Maritime Commission	***301***
"5. Other General Provisions	***501***

"CHAPTER 1—DEFINITIONS

''Sec.
''101. Agency.
''102. Barge.
''103. Boundary Line.
''104. Citizen of the United States.
''105. Consular officer.
''106. Documented vessel.
''107. Exclusive economic zone.
''108. Fisheries.
''109. Foreign commerce or trade.
''110. Foreign vessel.
''111. Numbered vessel.
''112. State.
''113. Undocumented.
''114. United States.
''115. Vessel.
''116. Vessel of the United States.

"§ 101. Agency

''In this title, the term 'agency' means a department, agency, or instrumentality of the United States Government.

"§ 102. Barge

''In this title, the term 'barge' means a nonself-propelled vessel.

"§ 103. Boundary Line

''In this title, the term 'Boundary Line' means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

"§ 104. Citizen of the United States

''In this title, the term 'citizen of the United States', when used in reference to a natural person, means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"§ 105. Consular officer

''In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

"§ 106. Documented vessel

''In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

"§ 107. Exclusive economic zone

''In this title, the term 'exclusive economic zone' means the zone established by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

"§ 108. Fisheries

''In this title, the term 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"§ 109. Foreign commerce or trade

''(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

''(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title, and in the context of construction-differential subsidies under title V of the Merchant Marine Act, 1936, the terms 'foreign commerce' and 'foreign trade' also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit United States-flag bulk vessels to compete freely with foreign-flag bulk vessels in their operation or competition for charters, subject to regulations prescribed by the Secretary of Transportation.

"§ 110. Foreign vessel

''In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

"§ 111. Numbered vessel

''In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

"§ 112. State

"In this title, the term 'State' means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

"§ 113. Undocumented

"In this title, the term 'undocumented' means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

"§ 114. United States

"In this title, the term 'United States', when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

"§ 115. Vessel

"In this title, the term 'vessel' has the meaning given that term in section 3 of title 1.

"§ 116. Vessel of the United States

"In this title, the term 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"CHAPTER 3—FEDERAL MARITIME COMMISSION

"Sec.
"301. General organization.
"302. Quorum.
"303. Record of meetings and votes.
"304. Delegation of authority.
"305. Regulations.
"306. Annual report.
"307. Expenditures.

"§ 301. General organization

"(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

"(b) COMMISSIONERS.—

"(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

"(2) TERMS.—The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.

"(3) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

"(c) CHAIRMAN.—

"(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

"(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

"(3) PARTICULAR DUTIES.—

"(A) IN GENERAL.—The Chairman shall—

"(i) appoint and supervise officers and employees of the Commission;

"(ii) appoint the heads of major organizational units, but only after consultation with the other Commissioners;

"(iii) distribute the business of the Commission among personnel and organizational units;

"(iv) supervise the expenditure of money for administrative purposes; and

"(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title.

"(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

"(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

"(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

"§ 302. Quorum

"A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

"§ 303. Record of meetings and votes

"The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

"§ 304. Delegation of authority

"(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

"(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

"(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

"§ 305. Regulations

"The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

"§ 306. Annual report

"(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

"(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

"(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

"(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

"(3) any actions being taken by the Commission to offset those conditions;

"(4) any recommendations for additional legislation to offset those conditions; and

"(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection.

"§ 307. Expenditures

"The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

"CHAPTER 5—OTHER GENERAL PROVISIONS

"Sec.
"501. Waiver of navigation and vessel-inspection laws.
"502. Cargo exempt from forfeiture.
"503. Notice of seizure.
"504. Remission of fees and penalties.
"505. Penalty for violating regulation or order.

"§ 501. Waiver of navigation and vessel-inspection laws

"(a) ON REQUEST OF SECRETARY OF DEFENSE.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

"(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.

"(c) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

"§ 502. Cargo exempt from forfeiture

"Cargo on a vessel is exempt from forfeiture under this title if—

"(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

"(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

"§ 503. Notice of seizure

"When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

"§ 504. Remission of fees and penalties

"Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

"(1) application for the remission is made within one year after the date of the payment or forfeiture; and

"(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

"§ 505. Penalty for violating regulation or order

"A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than $500. Each day of a continuing violation is a separate offense.".

SEC. 4. SUBTITLE II OF TITLE 46.

Chapter 121 of title 46, United States Code, is amended to read as follows:

"CHAPTER 121—DOCUMENTATION OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"12101. Definitions.
"12102. Vessels requiring documentation.
"12103. General eligibility requirements.
"12104. Applications for documentation.
"12105. Issuance of documentation.
"12106. Surrender of title and number.
"12107. Wrecked vessels.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"12111. Registry endorsement.

''12112. Coastwise endorsement.
''12113. Fishery endorsement.
''12114. Recreational endorsement.
''12115. Temporary endorsement for vessels procured outside the United States.
''12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
''12117. Oil spill response vessels.
''12118. Owners engaged primarily in manufacturing or mineral industry.
''12119. Owners engaged primarily in leasing or financing transactions.
''12120. Liquified gas tankers.
''12121. Small passenger vessels and uninspected passenger vessels.

''SUBCHAPTER III—MISCELLANEOUS

''12131. Command of documented vessels.
''12132. Loss of coastwise trade privileges.
''12133. Duty to carry certificate on vessel and allow examination.
''12134. Evidentiary uses of documentation.
''12135. Invalidation of certificates of documentation.
''12136. Surrender of certificates of documentation.
''12137. Recording of vessels built in the United States.
''12138. List of documented vessels.
''12139. Reports.

''SUBCHAPTER IV—PENALTIES

''12151. Penalties.
''12152. Denial or revocation of endorsement for non-payment of civil penalty.

''SUBCHAPTER I—GENERAL

"§ 12101. Definitions

''(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

''(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

''(1) REGISTRY ENDORSEMENT.—The terms 'certificate of registry', 'register', and 'registry' mean a certificate of documentation with a registry endorsement issued under this chapter.

''(2) COASTWISE ENDORSEMENT.—The terms 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', and 'enrollment and license for the coastwise (or coasting) trade' mean a certificate of documentation with a coastwise endorsement issued under this chapter.

''(3) YACHT.—The term 'yacht' means a recreational vessel even if not documented.

"§ 12102. Vessels requiring documentation

''(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

''(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

''(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

"§ 12103. General eligibility requirements

''(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

''(1) wholly owned by one or more individuals or entities described in subsection (b);

''(2) at least 5 net tons as measured under part J of this subtitle; and

''(3) not documented under the laws of a foreign country.

''(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

''(1) An individual who is a citizen of the United States.

''(2) An association, trust, joint venture, or other entity if—

''(A) each of its members is a citizen of the United States; and

''(B) it is capable of holding title to a vessel under the laws of the United States or a State.

''(3) A partnership if—

''(A) each general partner is a citizen of the United States; and

''(B) the controlling interest in the partnership is owned by citizens of the United States.

''(4) A corporation if—

''(A) it is incorporated under the laws of the United States or a State;

''(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

''(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

''(5) The United States Government.

''(6) The government of a State.

''(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

"§ 12104. Applications for documentation

''(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

''(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

''(1) if the applicant is an individual, the individual's social security number; or

''(2) if the applicant is an entity—

''(A) the entity's taxpayer identification number; or

''(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

"§ 12105. Issuance of documentation

''(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

''(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

''(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

''(1) identify and describe the vessel;

''(2) identify the owner of the vessel; and

''(3) contain additional information prescribed by the Secretary.

''(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

"§ 12106. Surrender of title and number

''(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

''(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

"§ 12107. Wrecked vessels

''(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

''(1) was wrecked on a coast of the United States or adjacent waters; and

''(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

''(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

''SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"§ 12111. Registry endorsement

''(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

''(c) CERTAIN VESSELS OWNED BY TRUSTS.—

''(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

''(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

''(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

''(i) each trustee is a citizen of the United States; and

''(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

''(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

''(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

''(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that

section and related laws, except subtitle B of title VI of the Merchant Marine Act, 1936.

"§ 12112. Coastwise endorsement

''(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

''(1) satisfies the requirements of section 12103 of this title;

''(2)(A) was built in the United States; or

''(B) if not built in the United States—

''(i) was captured in war by citizens of the United States and lawfully condemned as prize;

''(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

''(iii) qualifies as a wrecked vessel under section 12107 of this title; and

''(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

''(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

"§ 12113. Fishery endorsement

''(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

''(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

''(2) was built in the United States;

''(3) if rebuilt, was rebuilt in the United States;

''(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

''(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

''(b) AUTHORIZED ACTIVITY.—

''(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

''(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

''(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

''(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

''(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms 'control' or 'controlled'—

''(A) include the right to—

''(i) direct the business of the entity;

''(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

''(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

''(B) do not include the right to simply participate in the activities under clause (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

''(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

''(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

''(1) APPLICATION.—This subsection applies to a vessel that—

''(A) is greater than 165 feet in registered length;

''(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

''(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

''(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

''(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

''(ii) the vessel is not placed under foreign registry after October 21, 1998; and

''(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

''(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority.

''(e) VESSELS MEASURING 100 FEET OR GREATER.—

''(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

''(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

''(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

''(A) leases, charters, mortgages, financing, and similar arrangements;

''(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

''(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

''(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

''(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

''(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

''(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

"§ 12114. Recreational endorsement

''(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

''(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

"§ 12115. Temporary endorsement for vessels procured outside the United States

''(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

''(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

''(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

''(d) SURRENDER OF CERTIFICATE.—On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

"§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

''(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

''(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

''(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

''(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

''(1) satisfies the requirements of section 12103 of this title;

''(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

''(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

''(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

''§ 12117. Oil spill response vessels

''(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

''(1) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

''(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

''(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

''(4) is to be used only for—

''(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

''(ii) training exercises to prepare to respond to such a discharge.

''(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

''§ 12118. Owners engaged primarily in manufacturing or mineral industry

''(a) DEFINITIONS.—In this section:

''(1) BOWATERS CORPORATION.—The term 'Bowaters corporation' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

''(A) the corporation is incorporated under the laws of the United States or a State;

''(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

''(C) at least 90 percent of the employees of the corporation are residents of the United States;

''(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

''(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

''(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

''(2) PARENT.—The term 'parent' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

''(A) is incorporated under the laws of the United States or a State; and

''(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

''(3) SUBSIDIARY.—The term 'subsidiary' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

''(A) is incorporated under the laws of the United States or a State; and

''(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

''(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

''(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

''(1) is owned by a Bowaters corporation;

''(2) was built in the United States; and

''(3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or

''(B) is not self-propelled.

''(d) EFFECTS OF DOCUMENTATION.—

''(1) IN GENERAL.—Subject to paragraph (2)—

''(A) a vessel documented under this section may engage in the coastwise trade; and

''(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

''(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

''(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

''(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

''(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

''(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

''(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

''(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

''(f) PENALTIES.—

''(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

''(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

''(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

''(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

''§ 12119. Owners engaged primarily in leasing or financing transactions

''(a) DEFINITIONS.—In this section:

''(1) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

''(i) directly or indirectly controlled by, under common control with, or controlling that person; or

''(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

''(2) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

''(3) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

''(4) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

''(5) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

''(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

''(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

''(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

''(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

''(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

''(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

''(6) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

''(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

''(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

''(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

''(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

''(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

''(c) OWNERSHIP CERTIFICATION.—

''(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

''(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

''(A) is a leasing company, bank, or financial institution;

''(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

''(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

''(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

''(3) CERTAIN TANK VESSELS.—

''(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

''(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

''(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

''(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

''(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

''(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

''(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

''(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

''(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

''(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

''(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

''(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

''(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

''§ 12120. Liquified gas tankers

''Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

''(1) is a foreign built vessel that was built before October 19, 1996; or

''(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

''§ 12121. Small passenger vessels and uninspected passenger vessels

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

''(A) was not built in the United States and is at least 3 years old; or

''(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

''(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

''(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

''(1) United States vessel builders; or

''(2) the coastwise trade business of any person that employs vessels built in the United States in that business.

''(c) REVOCATION.—

''(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

''(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

''(A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or

''(B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

''SUBCHAPTER III—MISCELLANEOUS

''§ 12131. Command of documented vessels

''(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the commmand only of a citizen of the United States.

''(b) EXCEPTIONS.—Subsection (a) does not apply to—

''(1) a vessel with only a recreational endorsement; or

''(2) an unmanned barge operating outside of the territorial waters of the United States.

''§ 12132. Loss of coastwise trade privileges

''A vessel having a lawful right to engage in the coastwise trade is permanently prohibited from engaging in the coastwise trade if the vessel is—

''(1)(A) more than 200 gross tons as measured under chapter 143 of this title; and

''(B) sold foreign or placed under foreign registry; or

''(2) rebuilt outside the United States.

''§ 12133. Duty to carry certificate on vessel and allow examination

''(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

''(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

''(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

''§ 12134. Evidentiary uses of documentation

''A certificate of documentation is—

''(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

''(2) conclusive evidence of qualification to engage in a specified trade; and

''(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

''§ 12135. Invalidation of certificates of documentation

''A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

''(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

''(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

''§ 12136. Surrender of certificates of documentation

''(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

''(b) CONDITIONS FOR SURRENDER.—

''(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

''(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

''(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

''(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

''(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

''(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

''(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

''(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

''§ 12137. Recording of vessels built in the United States

''The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

''§ 12138. List of documented vessels

''(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels

and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

''(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

''(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

''(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

''(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

''(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

''(C) the name and address of the person to whom inquiries regarding the vessel may be made.

''(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

''§ 12139. Reports

''(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, and charterers of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

''(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

''(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

''(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

''(A) 500 gross tons as measured under section 14502 of this title; or

''(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

''(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

''SUBCHAPTER IV—PENALTIES

''§ 12151. Penalties

''(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

''(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

''(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

''(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

''(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

''(4) the vessel is employed in a trade without an appropriate endorsement;

''(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

''(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

''(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

''(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than $100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

''§ 12152. Denial or revocation of endorsement for non-payment of civil penalty

''If the owner of a vessel fails to pay a civil penalty imposed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.''.

SEC. 5. SUBTITLE III OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle III of title 46, United States Code, is amended to read as follows:

''Chapter	*Sec.*
''301. General Liability Provisions	***30101***
''303. Death on the High Seas	***30301***
''305. Exoneration and Limitation of Liability	***30501***
''307. Liability of Water Carriers	***30701***
''309. Suits in Admiralty Against United States Government	***30901***
''311. Suits Involving Public Vessels	***31101***
''313. Commercial Instruments and Maritime Liens	***31301''.***

(b) REPEALS.—Title 46, United States Code, is amended by striking chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(c) CHAPTERS 301–311.—Title 46, United States Code, is amended by inserting after the analysis of subtitle III the following:

''CHAPTER 301—GENERAL LIABILITY PROVISIONS

''Sec.
''30101. Extension of jurisdiction to cases of damage or injury on land.
''30102. Liability to passengers.
''30103. Liability of master, mate, engineer, and pilot.
''30104. Personal injury to or death of seamen.
''30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries.
''30106. Time limit on bringing action.

''§ 30101. Extension of jurisdiction to cases of damage or injury on land

''(a) IN GENERAL.—The admiralty and maritime jurisdiction of the United States extends to and includes cases of injury or damage, to person or property, caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land.

''(b) PROCEDURE.—A civil action in a case under subsection (a) may be brought in rem or in personam according to the principles of law and the rules of practice applicable in cases where the injury or damage has been done and consummated on navigable waters.

''(c) ACTIONS AGAINST UNITED STATES.—

''(1) EXCLUSIVE REMEDY.—In a civil action against the United States Government for injury or damage done or consummated on land by a vessel on navigable waters, chapter 309 or 311 of this title, as appropriate, provides the exclusive remedy.

''(2) ADMINISTRATIVE CLAIM.—A civil action described in paragraph (1) may not be brought until the expiration of the 6 month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.

''§ 30102. Liability to passengers

''(a) LIABILITY.—The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by—

''(1) a neglect or failure to comply with part B or F of subtitle II of this title; or

''(2) a known defect in the steaming apparatus or hull of the vessel.

''(b) NOT SUBJECT TO LIMITATION.—A liability imposed under this section is not subject to limitation under chapter 305 of this title.

''§ 30103. Liability of master, mate, engineer, and pilot

''A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's—

''(1) negligence or willful misconduct; or

''(2) neglect or refusal to obey the laws governing the navigation of vessels.

''§ 30104. Personal injury to or death of seamen

''(a) CAUSE OF ACTION.—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

''(b) VENUE.—An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

''§ 30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries

''(a) DEFINITION.—In this section, the term 'continental shelf' has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

''(b) RESTRICTION.—Except as provided in subsection (c), a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if—

''(1) the individual suffering the injury or death was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action;

''(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

''(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in the exploration, development, or production of offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces.

''(c) NONAPPLICATION.—Subsection (b) does not apply if the individual bringing the action establishes that a remedy is not available under the laws of—

''(1) the country asserting jurisdiction over the area in which the incident occurred; or

''(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

''§ 30106. Time limit on bringing action

''Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

''CHAPTER 303—DEATH ON THE HIGH SEAS

''Sec.
''30301. Short title.
''30302. Cause of action.
''30303. Amount and apportionment of recovery.
''30304. Contributory negligence.
''30305. Death of plaintiff in pending action.
''30306. Foreign cause of action.
''30307. Commercial aviation accidents.
''30308. Nonapplication.

''§ 30301. Short title

''This chapter may be cited as the 'Death on the High Seas Act'.

''§ 30302. Cause of action

''When the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible. The action shall be for the exclusive benefit of the decedent's spouse, parent, child, or dependent relative.

''§ 30303. Amount and apportionment of recovery

''The recovery in an action under this chapter shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

''§ 30304. Contributory negligence

''In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the degree of negligence of the decedent and reduce the recovery accordingly.

''§ 30305. Death of plaintiff in pending action

''If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30302 of this title, and the individual dies during the action as a result of the wrongful act, neglect, or default, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this chapter for the recovery authorized by this chapter.

''§ 30306. Foreign cause of action

''When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement for the amount for which recovery is authorized.

''§ 30307. Commercial aviation accidents

''(a) DEFINITION.—In this section, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.

''(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation is recoverable for nonpecuniary damages for wrongful death, but punitive damages are not recoverable.

''(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the death resulted from a commercial aviation accident occurring on the high seas 12 nautical miles or less from the shore of the United States.

''§ 30308. Nonapplication

''(a) STATE LAW.—This chapter does not affect the law of a State regulating the right to recover for death.

''(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes, waters within the territorial limits of a State, or navigable waters in the Panama Canal.

''CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY

''Sec.
''30501. Definition.
''30502. Application.
''30503. Declaration of nature and value of goods.
''30504. Loss by fire.
''30505. General limit of liability.
''30506. Limit of liability for personal injury or death.
''30507. Apportionment of losses.
''30508. Provisions requiring notice of claim or limiting time for bringing action.
''30509. Provisions limiting liability for personal injury or death.
''30510. Vicarious liability for medical malpractice.
''30511. Action by owner for limitation.
''30512. Liability as master, officer, or seaman not affected.

''§ 30501. Definition

''In this chapter, the term 'owner' includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

''§ 30502. Application

''Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

''§ 30503. Declaration of nature and value of goods

''(a) IN GENERAL.—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

''(b) ITEMS.—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

''§ 30504. Loss by fire

''The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

''§ 30505. General limit of liability

''(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim arising from any cause, on account of that ownership, without the privity or knowledge of the owner shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

''(b) NONAPPLICATION.—This section does not apply to a claim for wages.

''§ 30506. Limit of liability for personal injury or death

''(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

''(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under section 30505 of this title is such that the portion available to pay claims for personal injury or death is less than $420 times the tonnage of the vessel, that portion shall be increased to $420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

''(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

''(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

''(e) PRIVITY OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or managing agent, at or before the beginning of each voyage, is imputed to the owner.

''§ 30507. Apportionment of losses

''If the amount determined under sections 30505 and 30506 of this title is insufficient to pay all claimants, the claimants shall be paid in proportion to their respective losses.

''§ 30508. Provisions requiring notice of claim or limiting time for bringing action

''(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

''(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for—

''(1) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

''(2) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

''(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

''(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

''(2) the court finds there was a satisfactory reason why the notice could not have been given; or

''(3) the owner of the vessel fails to object to the failure to give the notice.

''(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

''(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

''(2) 3 years after the injury or death.

''§ 30509. Provisions limiting liability for personal injury or death

''(a) PROHIBITION.—

''(1) IN GENERAL.—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

''(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

''(B) the right of a claimant for personal injury or death to a trial.

''(2) VOIDNESS.—A provision described in paragraph (1) is void.

''(b) EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.—

''(1) IN GENERAL.—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

''(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

''(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

''(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

''(2) SEXUAL OFFENSES.—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

''§ 30510. Vicarious liability for medical malpractice

''In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

''§ 30511. Action by owner for limitation

''(a) IN GENERAL.—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

''(b) CREATION OF FUND.—When the action is brought, the owner shall—

''(1) deposit with the court, for the benefit of claimants—

''(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

''(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

''(2) transfer to a trustee appointed by the court, for the benefit of claimants—

''(A) the owner's interest in the vessel and pending freight; and

''(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

''(c) CESSATION OF OTHER ACTIONS.—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

''§ 30512. Liability as master, officer, or seaman not affected

''This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

''CHAPTER 307—LIABILITY OF WATER CARRIERS

''Sec.

''30701. Definition.
''30702. Application.
''30703. Bills of lading.
''30704. Loading, stowage, custody, care, and delivery.
''30705. Seaworthiness.
''30706. Defenses.
''30707. Civil penalty.

''§ 30701. Definition

''In this chapter, the term 'carrier' means the owner, manager, charterer, agent, or master of a vessel.

''§ 30702. Application

''(a) IN GENERAL.—Except as otherwise provided, this chapter applies to a carrier engaged in the carriage of goods to or from any port in the United States.

''(b) RELATION TO COGSA.—The relationship between this chapter and the Carriage of Goods By Sea Act shall be the same as the relationship that existed between the Act of February 13, 1893 (ch. 105, 27 Stat. 445) (commonly known as the Harter Act) and the Carriage of Goods By Sea Act, prior to the repeal of the Harter Act.

''(c) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply to the carriage of live animals.

''§ 30703. Bills of lading

''(a) ISSUANCE.—A carrier shall issue to a shipper a bill of lading or shipping document.

''(b) CONTENTS.—The bill of lading or shipping document shall include a statement of—

''(1) the marks necessary to identify the goods;

''(2) the number of packages, or the quantity or weight, and whether it is carrier's or shipper's weight; and

''(3) the apparent condition of the goods.

''(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping document issued under this section is prima facie evidence of receipt of the goods described.

''§ 30704. Loading, stowage, custody, care, and delivery

''A carrier may not insert in a bill of lading or shipping document a provision relieving the carrier from liability for loss or damage arising from improper loading, stowage, custody, care, or delivery. Any such provision is void.

''§ 30705. Seaworthiness

''(a) PROHIBITION.—A carrier may not insert in a bill of lading or shipping document a provision lessening or avoiding its obligation to exercise due diligence to—

''(1) make the vessel seaworthy; and

''(2) properly man, equip, and supply the vessel.

''(b) VOIDNESS.—A provision described in subsection (a) is void.

''§ 30706. Defenses

''(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the vessel in all respects seaworthy and to properly man, equip, and supply the vessel, the carrier and the vessel are not liable for loss or damage arising from an error in the navigation or management of the vessel.

''(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss or damage arising from—

''(1) dangers of the sea or other navigable waters;

''(2) acts of God;

''(3) public enemies;

''(4) seizure under legal process;

''(5) inherent defect, quality, or vice of the goods;

''(6) insufficiency of package;

''(7) act or omission of the shipper or owner of the goods or their agent; or

''(8) saving or attempting to save life or property at sea, including a deviation in rendering such a service.

''§ 30707. Civil penalty

''(a) IN GENERAL.—A carrier that violates this chapter is liable for a civil penalty of not more than $2,000.

''(b) LIEN.—The amount of the penalty and costs for the violation constitute a lien on the vessel engaged in the carriage. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found.

''(c) DISPOSITION OF PENALTY.—Half of the penalty shall be paid to the person injured by the violation and half to the United States Government.

''CHAPTER 309—SUITS IN ADMIRALTY AGAINST UNITED STATES GOVERNMENT

''Sec.

''30901. Short title.
''30902. Definition.
''30903. Waiver of immunity.
''30904. Exclusive remedy.
''30905. Period for bringing action.
''30906. Venue.
''30907. Security.
''30908. Procedure for hearing and determination.
''30909. Exoneration and limitation.
''30910. Costs and interest.
''30911. Arbitration, compromise, or settlement.
''30912. Payment of judgment or settlement.
''30913. Exemption from arrest or seizure.
''30914. Release of privately owned vessel after seizure.
''30915. Seizures and other proceedings in foreign jurisdictions.
''30916. Recovery by United States Government for salvage services.
''30917. Disposition of amounts recovered by United States Government.
''30918. Reports.

''§ 30901. Short title

''This chapter may be cited as the 'Suits in Admiralty Act'.

''§ 30902. Definition

''In this chapter, the term 'federally-owned corporation' means a corporation in which the United States Government owns all the outstanding capital stock.

''§ 30903. Waiver of immunity

''(a) IN GENERAL.—In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in personam may be brought against the United States Government or a federally-owned corporation. In a civil action in admiralty brought by the Government or a federally-owned corporation, an admiralty claim in personam may be filed or a setoff claimed against the Government or corporation.

''(b) NON-JURY.—A claim against the Government or a federally-owned corporation under this section shall be tried without a jury.

''§ 30904. Exclusive remedy

''If a remedy is provided by this chapter, it shall be exclusive of any other action arising out of the same subject matter against the officer, employee, or agent of the United States Government or the federally-owned corporation whose act or omission gave rise to the claim.

''§ 30905. Period for bringing action

''A civil action under this chapter must be brought within 2 years after the cause of action arose.

''§ 30906. Venue

''(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which—

''(1) any plaintiff resides or has its principal place of business; or

''(2) the vessel or cargo is found.

''(b) TRANSFER.—On a motion by a party, the court may transfer the action to any other district court of the United States.

''§ 30907. Security

''Neither the United States Government nor a federally-owned corporation may be required to

give a bond or admiralty stipulation in a civil action under this chapter.

"§ 30908. Procedure for hearing and determination

''(a) IN GENERAL.—A civil action under this chapter shall proceed and be heard and determined according to the principles of law and the rules of practice applicable in like cases between private parties.

''(b) IN REM.—

''(1) REQUIREMENTS.—The action may proceed according to the principles of an action in rem if—

''(A) the plaintiff elects in the complaint; and

''(B) it appears that an action in rem could have been maintained had the vessel or cargo been privately owned and possessed.

''(2) EFFECT ON RELIEF IN PERSONAM.—An election under paragraph (1) does not prevent the plaintiff from seeking relief in personam in the same action.

"§ 30909. Exoneration and limitation

''The United States Government is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

"§ 30910. Costs and interest

''(a) IN GENERAL.—A judgment against the United States Government or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent a year until satisfied. Interest shall run as ordered by the court, except that interest is not allowable for the period before the action is filed.

''(b) CONTRACT PROVIDING FOR INTEREST.—Notwithstanding subsection (a), if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

"§ 30911. Arbitration, compromise, or settlement

''The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim authorized by this chapter.

"§ 30912. Payment of judgment or settlement

''(a) IN GENERAL.—The proper accounting officer of the United States Government shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy.

''(b) SOURCE OF PAYMENT.—Payment shall be made from an appropriation or fund available specifically for the purpose. If no appropriation or fund is specifically available, there is hereby appropriated, out of money in the Treasury not otherwise appropriated, an amount sufficient to pay the judgment, award, or settlement.

"§ 30913. Exemption from arrest or seizure

''The following are not subject to arrest or seizure by judicial process in the United States:

''(1) A vessel owned by, possessed by, or operated by or for the United States Government or a federally-owned corporation.

''(2) Cargo owned or possessed by the Government or a federally-owned corporation.

"§ 30914. Release of privately owned vessel after seizure

''If a privately owned vessel not in the possession of the United States Government or a federally-owned corporation is arrested or attached in a civil action arising or alleged to have arisen from prior ownership, possession, or operation by the Government or corporation, the vessel shall be released without bond or stipulation on a statement by the Government, through the Attorney General or other authorized law officer, that the Government is interested in the action, desires release of the vessel, and assumes liability for the satisfaction of any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the Government in accordance with this chapter.

"§ 30915. Seizures and other proceedings in foreign jurisdictions

''(a) IN GENERAL.—If a vessel or cargo described in section 30913 or 30914 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession, or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the Attorney General or another officer authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought—

''(1) to claim the vessel or cargo as immune from arrest, attachment, or other seizure, and to execute an agreement, stipulation, bond, or undertaking, for the United States Government or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

''(2) if an action has been brought against the master of such a vessel, to enter the appearance of the Government or corporation and to pledge the credit of the Government or corporation to the payment of any judgment and costs in the action.

''(b) ARRANGING BOND OR STIPULATION.—The Attorney General may—

''(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

''(2) pledge the credit of the Government to secure the bond or stipulation.

''(c) PAYMENT OF JUDGMENT.—The appropriate accounting officer of the Government or corporation may pay a judgment in an action described in subsection (a) on presentation of a copy of the judgment if certified by the clerk of the court and authenticated by—

''(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

''(2) the certificate of the Secretary as to the official capacity of the consul.

''(d) RIGHT TO CLAIM IMMUNITY NOT AFFECTED.—This section does not affect the right of the Government to claim immunity of a vessel or cargo from foreign jurisdiction.

"§ 30916. Recovery by United States Government for salvage services

''(a) CIVIL ACTION.—The United States Government, and the crew of a merchant vessel owned or operated by the Government, or a federally-owned corporation, may bring a civil action to recover for salvage services provided by the vessel and crew.

''(b) DEPOSIT OF AMOUNTS RECOVERED.—Any amount recovered under this section by the Government for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the Government, or the corporation, having control of the possession or operation of the vessel.

"§ 30917. Disposition of amounts recovered by United States Government

''Amounts recovered in a civil action brought by the United States Government on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund from which the compensation for which the judgment was recovered was or will be paid.

"§ 30918. Reports

''The Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation, shall report to Congress at each session thereof all arbitration awards and settlements agreed to under this chapter since the previous session, for which the time to appeal has expired or been waived.

"CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

''Sec.
''31101. Short title.
''31102. Waiver of immunity.
''31103. Applicable procedure.
''31104. Venue.
''31105. Security when counterclaim filed.
''31106. Exoneration and limitation.
''31107. Interest.
''31108. Arbitration, compromise, or settlement.
''31109. Payment of judgment or settlement.
''31110. Subpoenas to officers or members of crew.
''31111. Claims by nationals of foreign countries.
''31112. Lien not recognized or created.
''31113. Reports.

"§ 31101. Short title

''This chapter may be cited as the 'Public Vessels Act'.

"§ 31102. Waiver of immunity

''(a) IN GENERAL.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States Government for—

''(1) damages caused by a public vessel of the United States; or

''(2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

''(b) COUNTERCLAIM OR SETOFF.—If the Government brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the Government for damages arising out of the same subject matter.

"§ 31103. Applicable procedure

''A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

"§ 31104. Venue

''(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

''(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or cargo is outside the territorial waters of the United States—

''(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

''(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

"§ 31105. Security when counterclaim filed

''If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

"§ 31106. Exoneration and limitation

''The United States Government is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

"§ 31107. Interest

''A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

"§ 31108. Arbitration, compromise, or settlement

''The Attorney General may arbitrate, compromise, or settle a claim authorized by this chapter if the claim actually has been filed.

"§ 31109. Payment of judgment or settlement

''The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

"§ 31110. Subpoenas to officers or members of crew

''An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

''(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

''(2) the master or commanding officer of the vessel at the time the subpoena is issued.

"§ 31111. Claims by nationals of foreign countries

''A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

"§ 31112. Lien not recognized or created

''This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

"§ 31113. Reports

''The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.''.

SEC. 6. SUBTITLE IV OF TITLE 46.

Title 46, United States Code, is amended by inserting after subtitle III the following:

"Subtitle IV—Regulation of Ocean Shipping

''PART A—OCEAN SHIPPING

''Chapter	*Sec.*
"401. General	***40101***
"403. Agreements	***40301***
"405. Tariffs, Service Contracts, Refunds, and Waivers	***40501***
"407. Controlled Carriers	***40701***
"409. Ocean Transportation Intermediaries	***40901***
"411. Prohibitions and Penalties	***41101***
"413. Enforcement	***41301***
''PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES	
"421. Regulations Affecting Shipping in Foreign Trade	***42101***
"423. Foreign Shipping Practices	***42301***
''PART C—MISCELLANEOUS	
"441. Evidence of Financial Responsibility for Passenger Transportation	***44101***

''PART A—OCEAN SHIPPING

"CHAPTER 401—GENERAL

''Sec.
''40101. Purposes.
''40102. Definitions.
''40103. Administrative exemptions.
''40104. Reports filed with the Commission.

"§ 40101. Purposes

''The purposes of this part are to—

''(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

''(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

''(3) encourage the development of an economically sound and efficient United States-flag liner fleet capable of meeting national security needs; and

''(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

"§ 40102. Definitions

''In this part:

''(1) AGREEMENT.—The term 'agreement'—

''(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

''(B) does not include a maritime labor agreement.

''(2) ANTITRUST LAWS.—The term 'antitrust laws' means—

''(A) the Sherman Act (15 U.S.C. 1 et seq.);

''(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

''(C) the Clayton Act (15 U.S.C. 12 et seq.);

''(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

''(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

''(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

''(G) Acts supplementary to those Acts.

''(3) ASSESSMENT AGREEMENT.—The term 'assessment agreement' means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

''(4) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

''(5) CHEMICAL PARCEL-TANKER.—The term 'chemical parcel-tanker' means a vessel that has—

''(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

''(i) are a permanent part of the vessel; and

''(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

''(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

''(6) COMMON CARRIER.—The term 'common carrier'—

''(A) means a person that—

''(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

''(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

''(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

''(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

''(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

''(ii) only with respect to the carriage of those commodities.

''(7) CONFERENCE.—The term 'conference'—

''(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

''(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

''(8) CONTROLLED CARRIER.—The term 'controlled carrier' means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

''(A) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

''(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

''(9) DEFERRED REBATE.—The term 'deferred rebate' means a return by a common carrier of any freight money to a shipper, where the return is—

''(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

''(B) deferred beyond the completion of the service for which it was paid; and

''(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

''(10) FOREST PRODUCTS.—The term 'forest products' includes lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, and paper and paper board in rolls or in pallet or skid-sized sheets.

''(11) INLAND DIVISION.—The term 'inland division' means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

''(12) INLAND PORTION.—The term 'inland portion' means the charge to the public by a common carrier for the non-ocean portion of through transportation.

''(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a contract with an ocean common carrier or agreement providing for—

''(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

''(B) a deferred rebate arrangement.

''(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal operator' means a person engaged in the United States in the business of providing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49.

''(15) MARITIME LABOR AGREEMENT.—The term 'maritime labor agreement'—

''(A) means—

''(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

''(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

''(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

''(B) does not include an assessment agreement.

''(16) NON-VESSEL-OPERATING COMMON CARRIER.—The term 'non-vessel-operating common carrier' means a common carrier that—

''(A) does not operate the vessels by which the ocean transportation is provided; and

''(B) is a shipper in its relationship with an ocean common carrier.

''(17) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a vessel-operating common carrier.

''(18) OCEAN FREIGHT FORWARDER.—The term 'ocean freight forwarder' means a person that—

''(A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

''(B) processes the documentation or performs related activities incident to those shipments.

''(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier.

''(20) SERVICE CONTRACT.—The term 'service contract' means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

''(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

''(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features.

''(21) SHIPMENT.—The term 'shipment' means all of the cargo carried under the terms of a single bill of lading.

''(22) SHIPPER.—The term 'shipper' means—

''(A) a cargo owner;

''(B) the person for whose account the ocean transportation of cargo is provided;

''(C) the person to whom delivery is to be made;

''(D) a shippers' association; or

''(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

''(23) SHIPPERS' ASSOCIATION.—The term 'shippers' association' means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

''(24) THROUGH RATE.—The term 'through rate' means the single amount charged by a common carrier in connection with through transportation.

''(25) THROUGH TRANSPORTATION.—The term 'through transportation' means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States port or point and a foreign port or point.

"§ 40103. Administrative exemptions

''(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

''(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

"§ 40104. Reports filed with the Commission

''(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.

''(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

"CHAPTER 403—AGREEMENTS

''Sec.
''40301. Application.
''40302. Filing requirements.
''40303. Content requirements.
''40304. Commission action.
''40305. Assessment agreements.
''40306. Nondisclosure of information.
''40307. Exemption from antitrust laws.

"§ 40301. Application

''(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

''(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

''(2) pool or apportion traffic, revenues, earnings, or losses;

''(3) allot ports or regulate the number and character of voyages between ports;

''(4) regulate the volume or character of cargo or passenger traffic to be carried;

''(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

''(6) control, regulate, or prevent competition in international ocean transportation; or

''(7) discuss and agree on any matter related to a service contract.

''(b) MARINE TERMINAL OPERATOR AGREEMENTS.—This part applies to an agreement between or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

''(1) discuss, fix, or regulate rates or other conditions of service; or

''(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

''(c) ACQUISITIONS.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

''(d) MARITIME LABOR AGREEMENTS.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

''(e) ASSESSMENT AGREEMENTS.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

"§ 40302. Filing requirements

''(a) IN GENERAL.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

''(b) EXCEPTIONS.—Subsection (a) does not apply to—

''(1) an agreement related to transportation to be performed within or between foreign countries; or

''(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

''(c) REGULATIONS.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and any additional information and documents necessary to evaluate the agreement.

"§ 40303. Content requirements

''(a) OCEAN COMMON CARRIER AGREEMENTS.—

''(1) RESTRICTIONS.—An ocean common carrier agreement may not—

''(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

''(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

''(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

''(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

''(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

''(1) state its purpose;

''(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

''(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

''(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

''(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

''(6) provide for a consultation process designed to promote—

''(A) commercial resolution of disputes; and

''(B) cooperation with shippers in preventing and eliminating malpractices;

''(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

''(8) provide that—

''(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

''(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

''(c) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

''(d) VESSEL SHARING AGREEMENTS.—

''(1) IN GENERAL.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a United States-flag liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for United States-flag vessels.

''(2) CARRIER DESCRIBED.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of United States-flag liner vessels that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

"§ 40304. Commission action

''(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime

Commission shall transmit a notice of the filing to the Federal Register for publication.

''(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

''(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

''(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

''(2) if additional information or documents are requested under subsection (d)—

''(A) on the 45th day after the Commission receives all the additional information and documents; or

''(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

''(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

''(e) MODIFICATION OF REVIEW PERIOD.—

''(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

''(2) EXTENSION.—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

''(f) FIXED TERMS.—The Commission may not limit the effectiveness of an agreement to a fixed term.

''§ 40305. Assessment agreements

''(a) FILING REQUIREMENT.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing.

''(b) COMPLAINTS.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed.

''(c) ADJUSTMENTS OF ASSESSMENTS AND CHARGES.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

''§ 40306. Nondisclosure of information

''Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

''§ 40307. Exemption from antitrust laws

''(a) IN GENERAL.—The antitrust laws do not apply to—

''(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

''(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

''(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

''(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

''(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

''(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

''(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

''(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

''(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

''(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

''(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

''(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

''(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

''(4) a loyalty contract.

''(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

''(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

''CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

''Sec.
''40501. General rate and tariff requirements.
''40502. Service contracts.
''40503. Refunds and waivers.

''§ 40501. General rate and tariff requirements

''(a) AUTOMATED TARIFF SYSTEM.—

''(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

''(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

''(b) CONTENTS OF TARIFFS.—A tariff under subsection (a) shall—

''(1) state the places between which cargo will be carried;

''(2) list each classification of cargo in use;

''(3) state the level of compensation, if any, of any ocean freight forwarder by a carrier or conference;

''(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

''(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

''(6) include copies of any loyalty contract, omitting the shipper's name.

''(c) ELECTRONIC ACCESS.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

''(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

''(e) EFFECTIVE DATES.—

''(1) INCREASES.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective earlier than 30 days after publication. However, for good cause, the Federal Maritime Commission may allow the rate to become effective sooner.

''(2) DECREASES.—A change in an existing rate that results in a decreased cost to a shipper may become effective on publication.

''(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.

''(g) REGULATIONS.—

''(1) IN GENERAL.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission, after periodic review, may prohibit the use of any automated tariff system that fails to meet the requirements established under this section.

''(2) REMOTE TERMINALS.—The Commission may not require a common carrier to provide a remote terminal for electronic access under subsection (c).

''(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

''§ 40502. Service contracts

''(a) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this part.

''(b) FILING REQUIREMENTS.—

''(1) IN GENERAL.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

''(c) ESSENTIAL TERMS.—Each service contract shall include—

''(1) the origin and destination port ranges;

''(2) the origin and destination geographic areas in the case of through intermodal movements;

''(3) the commodities involved;

''(4) the minimum volume or portion;

''(5) the line-haul rate;

''(6) the duration;

''(7) service commitments; and

''(8) the liquidated damages for nonperformance, if any.

''(d) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in clauses (1), (3), (4), and (6) of subsection (c) shall be published and made available to the general public in tariff format.

''(e) DISCLOSURE OF CERTAIN TERMS.—

''(1) DEFINITIONS.—In this subsection, the terms 'dock area' and 'within the port area' have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.

''(2) DISCLOSURE.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

''(A) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

''(B) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area.

''(C) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

''(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

''(3) WITHIN REASONABLE TIME.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

''(4) EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.—This subsection does not require the disclosure of information by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

''(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

''(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

''§ 40503. Refunds and waivers

''The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or to waive collection of a portion of the charges from a shipper, if—

''(1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;

''(2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and

''(3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

''CHAPTER 407—CONTROLLED CARRIERS

''Sec.
''40701. Rates.
''40702. Rate standards.
''40703. Effective date of rates.
''40704. Commission review.
''40705. Presidential review of Commission orders.
''40706. Exceptions.

''§ 40701. Rates

''(a) IN GENERAL.—A controlled carrier may not—

''(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

''(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

''(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

''(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

''(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

''§ 40702. Rate standards

''(a) DEFINITION.—In this section, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

''(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

''(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

''(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

''(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

''(B) required to ensure movement of particular cargo in the same trade; or

''(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

''§ 40703. Effective date of rates

''Notwithstanding section 40501(e) of this title and except for service contracts, a rate, charge, classification, rule, or regulation of a controlled carrier may not become effective, without special permission of the Federal Maritime Commission, until the 30th day after publication.

''§ 40704. Commission review

''(a) REQUEST FOR JUSTIFICATION.—On request of the Federal Maritime Commission, a controlled carrier shall file with the Commission, within 20 days of the request, a statement of justification that sufficiently details the carrier's need and purpose for an existing or proposed rate, charge, classification, rule, or regulation and upon which the Commission may reasonably base a determination of its lawfulness.

''(b) DETERMINATION.—Within 120 days after receipt of information requested under subsection (a), the Commission shall determine whether the rate, charge, classification, rule, or regulation may be unjust and unreasonable.

''(c) SHOW CAUSE ORDER.—Whenever the Commission is of the opinion that a rate, charge, classification, rule, or regulation published or assessed by a controlled carrier may be unjust and unreasonable, the Commission shall issue an order to the controlled carrier to show cause why the rate, charge, classification, rule, or regulation should not be prohibited.

''(d) SUSPENSION PENDING DETERMINATION.—

''(1) NOT YET EFFECTIVE.—Pending a determination of the lawfulness of a rate, charge, classification, rule, or regulation in a proceeding under subsection (c), the Commission may suspend the rate, charge, classification, rule, or regulation at any time before its effective date.

''(2) ALREADY EFFECTIVE.—If a rate, charge, classification, rule, or regulation has already become effective, the Commission, on issuance of an order to show cause, may suspend the rate, charge, classification, rule, or regulation on at least 30 days' notice to the controlled carrier.

''(3) MAXIMUM SUSPENSION.—A period of suspension under this subsection may not exceed 180 days.

''(e) REPLACEMENT DURING SUSPENSION.—Whenever the Commission has suspended a rate, charge, classification, rule, or regulation under this section, the controlled carrier may publish a new rate, charge, classification, rule, or regulation to take effect immediately during the suspension in lieu of the suspended rate, charge, classification, rule, or regulation. However, the Commission may reject the new rate, charge, classification, rule, or regulation if the Commission believes it is unjust and unreasonable.

''§ 40705. Presidential review of Commission orders

''(a) TRANSMISSION TO PRESIDENT.—The Federal Maritime Commission shall transmit to the President, concurrently with publication thereof, each order of suspension or final order of prohibition issued under section 40704 of this title.

''(b) PRESIDENTIAL REQUEST AND COMMISSION ACTION.—Within 10 days after receipt or the effective date of a Commission order referred to in subsection (a), the President, in writing, may request the Commission to stay the effect of the order if the President finds that the stay is required for reasons of national defense or foreign policy. The reasons shall be specified in the request. The Commission shall immediately grant the request by issuing an order in which the President's request shall be described. During a stay, the President shall, whenever practicable, attempt to resolve the matter by negotiating with representatives of the applicable foreign governments.

''§ 40706. Exceptions

''This chapter does not apply to—

''(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

''(2) a trade served only by controlled carriers.

''CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

''Sec.

''40901. License requirement.
''40902. Financial responsibility.
''40903. Suspension or revocation of license.
''40904. Compensation by common carriers.

"§ 40901. License requirement

''(a) IN GENERAL.—A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

''(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

"§ 40902. Financial responsibility

''(a) IN GENERAL.—A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

''(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

''(2) issued by a surety company found acceptable by the Secretary of the Treasury.

''(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

''(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

''(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

''(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

''(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

''(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

''(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

''(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"§ 40903. Suspension or revocation of license

''(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.—The Federal Maritime Commission, after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—

''(1) is not qualified to provide intermediary services; or

''(2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

''(b) FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER SURETY.—The Commission may revoke an ocean transportation intermediary's license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

"§ 40904. Compensation by common carriers

''(a) CERTIFICATION OF LICENSE AND SERVICES.—A common carrier may compensate an ocean freight forwarder for a shipment dispatched for others only when the ocean freight forwarder has certified in writing that it holds an ocean transportation intermediary's license (if required under section 40901 of this title) and has—

''(1) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of the space; and

''(2) prepared and processed the ocean bill of lading, dock receipt, or other similar document for the shipment.

''(b) DUAL COMPENSATION.—A common carrier may not pay compensation for services described in subsection (a) more than once on the same shipment.

''(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may not receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest. A common carrier may not knowingly pay compensation on that shipment.

''(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree on the level of compensation paid to an ocean freight forwarder may not—

''(1) deny a member of the conference or group the right, upon notice of not more than 5 days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

''(2) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under a tariff and assessed against the cargo on which the services of the ocean freight forwarder are provided.

"CHAPTER 411—PROHIBITIONS AND PENALTIES

''Sec.
''41101. Joint ventures and consortiums.
''41102. General prohibitions.
''41103. Disclosure of information.
''41104. Common carriers.
''41105. Concerted action.
''41106. Marine terminal operators.
''41107. Monetary penalties.
''41108. Additional penalties.
''41109. Assessment of penalties.

"§ 41101. Joint ventures and consortiums

''In this chapter, a joint venture or consortium of two or more common carriers operating as a single entity is deemed to be a single common carrier.

"§ 41102. General prohibitions

''(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

''(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

''(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

''(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

''(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

"§ 41103. Disclosure of information

''(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

''(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

''(2) may improperly disclose its business transaction to a competitor.

''(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

''(1) in response to legal process;

''(2) to the Federal Maritime Commission or an agency of the United States Government; or

''(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

''(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee, lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

''(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

''(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

''(B) determining whether a member of the conference has breached the conference agreement; or

''(C) compiling statistics of cargo movement; and

''(2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

"§ 41104. Common carriers

''A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

''(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

''(2) provide service in the liner trade that is—

''(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or

''(B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;

''(3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

''(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

''(A) rates or charges;

''(B) cargo classifications;

''(C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;

''(D) loading and landing of freight; or

''(E) adjustment and settlement of claims;

''(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;

''(6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

''(7) offer or pay any deferred rebates;

''(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

''(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

''(10) unreasonably refuse to deal or negotiate;

''(11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title; or

''(12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

''§ 41105. Concerted action

''A conference or group of two or more common carriers may not—

''(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

''(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

''(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

''(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this clause does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

''(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

''(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

''(A) authorized by section 40303(d) of this title;

''(B) required by the law of the United States or the importing or exporting country; or

''(C) agreed to by a shipper in a service contract;

''(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

''(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

''§ 41106. Marine terminal operators

''A marine terminal operator may not—

''(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

''(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

''(3) unreasonably refuse to deal or negotiate.

''§ 41107. Monetary penalties

''(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed $5,000 for each violation or, if the violation was willfully and knowingly committed, $25,000 for each violation. Each day of a continuing violation is a separate violation.

''(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

''§ 41108. Additional penalties

''(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7) of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

''(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than $50,000 for each shipment.

''(c) FAILURE TO PROVIDE INFORMATION.—

''(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

''(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

''(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

''(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. On receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the information or documents are alleged to be located for the purpose of assisting the Commission in obtaining the information or documents.

''(d) IMPAIRING ACCESS TO FOREIGN TRADE.—If the Commission finds, after notice and opportunity for a hearing, that the action of a common carrier, acting alone or in concert with another person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including imposing any of the penalties authorized by this section. The Commission also may take any of the actions authorized by sections 42304 and 42305 of this title.

''(e) SUBMISSION OF ORDER TO PRESIDENT.—Before an order under this section becomes effective, it shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it if the President finds that disapproval is required for reasons of national defense or foreign policy.

''§ 41109. Assessment of penalties

''(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may, after notice and opportunity for a hearing, assess a civil penalty provided for in this part. The Commission may compromise, modify, or remit, with or without conditions, a civil penalty.

''(b) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.

''(c) EXCEPTION.—A civil penalty may not be imposed for conspiracy to violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Commission by concealing such a violation.

''(d) PROHIBITED BASIS OF PENALTY.—The Commission or a court may not order a person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in a tariff or service contract by that common carrier for the transportation service provided.

''(e) TIME LIMIT.—A proceeding to assess a civil penalty under this section must be commenced within 5 years after the date of the violation.

''(f) REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28.

''(g) CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to collect the amount assessed in an appropriate district court of the United States. The court shall enforce the order of the Commission unless it finds that the order was not regularly made and duly issued.

''CHAPTER 413—ENFORCEMENT

''Sec.
''41301. Complaints.
''41302. Investigations.
''41303. Discovery and subpoenas.
''41304. Hearings and orders.
''41305. Award of reparations.
''41306. Injunctive relief sought by complainants.
''41307. Injunctive relief sought by the Commission.
''41308. Enforcement of subpoenas and orders.
''41309. Enforcement of reparation orders.

''§ 41301. Complaints

''(a) IN GENERAL.—A person may file with the Federal Maritime Commission a sworn complaint alleging a violation of this part, except section 41307(b)(1). If the complaint is filed within 3 years after the claim accrues, the complainant may seek reparations for an injury to the complainant caused by the violation.

''(b) NOTICE AND RESPONSE.—The Commission shall provide a copy of the complaint to the person named in the complaint. Within a reasonable time specified by the Commission, the person shall satisfy the complaint or answer it in writing.

''(c) IF COMPLAINT NOT SATISFIED.—If the complaint is not satisfied, the Commission shall investigate the complaint in an appropriate manner and make an appropriate order.

"§ 41302. Investigations

''(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

''(b) EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement under investigation by the Commission remains in effect until the Commission issues its order.

''(c) DATE FOR DECISION.—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

''(d) SANCTIONS FOR DELAY.—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

''(e) REPORT.—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

"§ 41303. Discovery and subpoenas

''(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

''(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

''(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

''(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

"§ 41304. Hearings and orders

''(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

''(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

''(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

''(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

"§ 41305. Award of reparations

''(a) DEFINITION.—In this section, the term 'actual injury' includes the loss of interest at commercial rates compounded from the date of injury.

''(b) BASIC AMOUNT.—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

''(c) ADDITIONAL AMOUNTS.—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

''(d) DIFFERENCE BETWEEN RATES.—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

"§ 41306. Injunctive relief sought by complainants

''(a) IN GENERAL.—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

''(b) VENUE.—The action must be brought in the judicial district in which—

''(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

''(2) the defendant resides or transacts business, if the Commission has not brought such an action.

''(c) REMEDIES BY COURT.—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

''(d) ATTORNEY FEES.—A defendant prevailing in a civil action under this section shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"§ 41307. Injunctive relief sought by the Commission

''(a) GENERAL VIOLATIONS.—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

''(b) REDUCTION IN COMPETITION.—

''(1) ACTION BY COMMISSION.—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission's sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

''(2) REMEDIES BY COURT.—In an action under this subsection, the court may issue—

''(A) a temporary restraining order or a preliminary injunction; and

''(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

''(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

''(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

''(1) may order compliance;

''(2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and

''(3) may grant other equitable relief that the court decides is appropriate.

''(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

''(1) a district court of the United States, on notice to the Attorney General; and

''(2) a court of appeals of the United States, with the approval of the Attorney General.

"§ 41308. Enforcement of subpoenas and orders

''(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

''(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

"§ 41309. Enforcement of reparation orders

''(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

''(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

''(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

''(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

''(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

''PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

"CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

''Sec.
''42101. Regulations of the Commission.
''42102. Regulations of other agencies.
''42103. No preference to Government-owned vessels.
''42104. Information, witnesses, and evidence.
''42105. Disclosure to public.
''42106. Other actions to remedy unfavorable conditions.
''42107. Refusal of clearance and entry.
''42108. Penalty for operating under suspended tariff or service contract.
''42109. Consultation with other agencies.

"§ 42101. Regulations of the Commission

''(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

''(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"§ 42102. Regulations of other agencies

''(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

''(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

''(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

"§ 42103. No preference to Government-owned vessels

''A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

"§ 42104. Information, witnesses, and evidence

''(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

''(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

''(1) subpoena witnesses and evidence; and

''(2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

''(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

''(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

''(1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier's right to use tariffs of conferences and service contracts of agreements of which it is a member; or

''(2) assess a civil penalty of not more than $5,000 for each day that the information is not provided.

''(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

"§ 42105. Disclosure to public

''Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

"§ 42106. Other actions to remedy unfavorable conditions

''If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

''(1) limit voyages to and from United States ports or the amount or type of cargo carried;

''(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;

''(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;

''(4) impose a fee not to exceed $1,000,000 per voyage; or

''(5) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"§ 42107. Refusal of clearance and entry

''At the request of the Federal Maritime Commission—

''(1) the Secretary of Homeland Security shall—

''(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

''(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

''(2) the Secretary of the department in which the Coast Guard is operating shall—

''(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

''(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"§ 42108. Penalty for operating under suspended tariff or service contract

''A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff or service contract.

"§ 42109. Consultation with other agencies

''The Federal Maritime Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under this chapter.

"CHAPTER 423—FOREIGN SHIPPING PRACTICES

''Sec.
''42301. Definitions.
''42302. Investigations.
''42303. Information requests.
''42304. Action against foreign carriers.
''42305. Refusal of clearance and entry.
''42306. Submission of determinations to President.
''42307. Review of regulations and orders.

"§ 42301. Definitions

''(a) DEFINED IN PART A.—In this chapter, the terms 'common carrier', 'marine terminal operator', 'ocean common carrier', 'ocean transportation intermediary', 'shipper', and 'shippers' association' have the meaning given those terms in section 40102 of this title.

''(b) OTHER DEFINITIONS.—In this chapter:

''(1) FOREIGN CARRIER.—The term 'foreign carrier' means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

''(2) MARITIME SERVICES.—The term 'maritime services' means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

''(3) MARITIME-RELATED SERVICES.—The term 'maritime-related services' means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

''(4) UNITED STATES CARRIER.—The term 'United States carrier' means an ocean common carrier operating vessels documented under the laws of the United States.

''(5) UNITED STATES OCEANBORNE TRADE.—The term 'United States oceanborne trade' means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

"§ 42302. Investigations

''(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

''(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

''(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

''(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

''(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90

days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

"§ 42303. Information requests

''(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

''(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

''(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

"§ 42304. Action against foreign carriers

''(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

''(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

''(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier's right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

''(3) suspension, in whole or in part, of an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

''(4) a fee not to exceed $1,000,000 per voyage.

''(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

"§ 42305. Refusal of clearance and entry

''Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

''(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

''(2) the Secretary of the department in which the Coast Guard is operating shall—

''(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

''(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"§ 42306. Submission of determinations to President

''Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

"§ 42307. Review of regulations and orders

''A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

''PART C—MISCELLANEOUS

"CHAPTER 441—EVIDENCE OF FINANCIAL RESPONSIBILITY FOR PASSENGER TRANSPORTATION

''Sec.
''44101. Application.
''44102. Financial responsibility to indemnify passengers for nonperformance of transportation.
''44103. Financial responsibility to pay liability for death or injury.
''44104. Civil penalty.
''44105. Refusal of clearance.
''44106. Conduct of proceedings.

"§ 44101. Application

''This chapter applies to a vessel that—

''(1) has berth or stateroom accommodations for at least 50 passengers; and

''(2) boards passengers at a port in the United States.

"§ 44102. Financial responsibility to indemnify passengers for nonperformance of transportation

''(a) FILING REQUIREMENT.—A person in the United States may not arrange, offer, advertise, or provide transportation on a vessel to which this chapter applies unless the person has filed with the Federal Maritime Commission evidence of financial responsibility to indemnify passengers for nonperformance of the transportation.

''(b) SATISFACTORY EVIDENCE.—To satisfy subsection (a), a person must file—

''(1) information the Commission considers necessary; or

''(2) a copy of a bond or other security, in such form as the Commission by regulation may require.

''(c) AUTHORIZED ISSUER OF BOND.—If a bond is filed, it must be issued by a bonding company authorized to do business in the United States.

"§ 44103. Financial responsibility to pay liability for death or injury

''(a) GENERAL REQUIREMENT.—The owner or charterer of a vessel to which this chapter applies shall establish, under regulations prescribed by the Federal Maritime Commission, financial responsibility to meet liability for death or injury to passengers or other individuals on a voyage to or from a port in the United States.

''(b) AMOUNTS.—

''(1) IN GENERAL.—The amount of financial responsibility required under subsection (a) shall be based on the number of passenger accommodations as follows:

''(A) $20,000 for each of the first 500 passenger accommodations.

''(B) $15,000 for each additional passenger accommodation between 501 and 1,000.

''(C) $10,000 for each additional passenger accommodation between 1,001 and 1,500.

''(D) $5,000 for each additional passenger accommodation over 1,500.

''(2) MULTIPLE VESSELS.—If the owner or charterer is operating more than one vessel subject to this chapter, the amount of financial responsibility shall be based on the number of passenger accommodations on the vessel with the largest number of passenger accommodations.

''(c) AVAILABILITY TO PAY JUDGMENT.—The amount determined under subsection (b) shall be available to pay a judgment for damages (whether less than or more than $20,000) for death or injury to a passenger or other individual on a voyage to or from a port in the United States.

''(d) MEANS OF ESTABLISHING.—Financial responsibility under this section may be established by one or more of the following if acceptable to the Commission:

''(1) Insurance.

''(2) Surety bond issued by a bonding company authorized to do business in the United States.

''(3) Qualification as a self-insurer.

''(4) Other evidence of financial responsibility.

"§ 44104. Civil penalty

''A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than $5,000, plus $200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

"§ 44105. Refusal of clearance

''The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

"§ 44106. Conduct of proceedings

''Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.''.

SEC. 7. SUBTITLE V OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle V of title 46, United States Code, is amended to read as follows:

''PART A—GENERAL

''Chapter	*Sec.*
"501. Policy, Studies, and Reports	***50101***
"503. Administrative	***50301***
"505. Other General Provisions	***50501***
''PART B—MERCHANT MARINE SERVICE	
"511. General	***51101***
"513. United States Merchant Marine Academy	***51301***
"515. State Maritime Academy Support Program	***51501***
"517. Other Support for Merchant Marine Training	***51701***
"519. Merchant Marine Awards	***51901***
"521. Miscellaneous	***52101***
''PART C—FINANCIAL ASSISTANCE PROGRAMS	
"531. Maritime Security Fleet	***53101***
"533. Construction Reserve Funds	***53301***
"535. Capital Construction Funds	***53501***
"537. Loans and Guarantees	***53701***
"539. War Risk Insurance	***53901***
''PART D—PROMOTIONAL PROGRAMS	
"551. Coastwise Trade	***55101***
"553. Passenger and Cargo Preferences	***55301***
"555. Miscellaneous	***55501***
''PART E—CONTROL OF MERCHANT MARINE CAPABILITIES	
"561. Restrictions on Transfers	***56101***
"563. Emergency Acquisition of Vessels	***56301***
"565. Essential Vessels Affected by Neutrality Act	***56501***
''PART F—GOVERNMENT-OWNED MERCHANT VESSELS	
"571. General Authority	***57101***
"573. Vessel Trade-In Program	***57301***
"575. Construction, Charter, and Sale of Vessels	***57501***

''PART G—RESTRICTIONS AND PENALTIES

"581. Restrictions and Penalties 58101".

(b) CHAPTERS PRECEDING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by inserting after the subtitle analysis the following:

''PART A—GENERAL

"CHAPTER 501—POLICY, STUDIES, AND REPORTS

''Sec.
''50101. Objectives and policy.
''50102. Survey of merchant marine.
''50103. Determinations of essential services.
''50104. Studies of general maritime problems.
''50105. Studies and cooperation relating to the construction of vessels.
''50106. Studies on the operation of vessels.
''50107. Studies on marine insurance.
''50108. Studies on cargo carriage and cargo containers.
''50109. Miscellaneous studies.
''50110. Securing preference to vessels of the United States.
''50111. Reports to Congress.
''50112. National Maritime Enhancement Institutes.
''50113. Use and performance reports by operators of vessels.

"§ 50101. Objectives and policy

''(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

''(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

''(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

''(3) owned and operated under United States flag by citizens of the United States insofar as practicable;

''(4) composed of the best-equipped, safest, and most suitable types of vessels, built in the United States and manned with a trained and efficient citizen personnel; and

''(5) supplemented by efficient facilities for building and repairing vessels.

''(b) POLICY.—It is the policy of the United States Government to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

"§ 50102. Survey of merchant marine

''(a) IN GENERAL.—The Secretary of Transportation shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in—

''(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

''(2) ownership and operation of the fleet by citizens of the United States insofar as practicable;

''(3) vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils; and

''(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

''(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out subsection (a)(1), the Secretary of Transportation shall cooperate closely with the Secretary of the Navy as to national defense requirements.

"§ 50103. Determinations of essential services

''(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

''(1) IN GENERAL.—The Secretary of Transportation shall investigate, determine, and keep current records of the ocean services, routes, and lines from ports in the United States, or in the territories and possessions of the United States, to foreign markets, which the Secretary determines to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. In making such a determination, the Secretary shall consider and give due weight to—

''(A) the cost of maintaining each line;

''(B) the probability that a line cannot be maintained except at a heavy loss disproportionate to the benefit to foreign trade;

''(C) the number of voyages and types of vessels that should be employed in a line;

''(D) the intangible benefit of maintaining a line to the foreign commerce of the United States, the national defense, and other national requirements; and

''(E) any other facts and conditions a prudent business person would consider when dealing with the person's own business.

''(2) SAINT LAWRENCE SEAWAY.—For purposes of paragraph (1), the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

''(b) BULK CARGO CARRYING SERVICES.—The Secretary shall investigate, determine, and keep current records of the bulk cargo carrying services that should be provided by United States-flag vessels (whether or not operating on particular services, routes, or lines) for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and the national defense or other national requirements.

''(c) TYPES OF VESSELS.—The Secretary shall investigate, determine, and keep current records of the type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, that should be employed in—

''(1) the services, routes, or lines described in subsection (a), and the frequency and regularity of the voyages of the vessels, with a view to furnishing adequate, regular, certain, and permanent service; and

''(2) the bulk cargo carrying services described in subsection (b).

"§ 50104. Studies of general maritime problems

''The Secretary of Transportation shall study all maritime problems arising in carrying out the policy in section 50101 of this title.

"§ 50105. Studies and cooperation relating to the construction of vessels

''(a) RELATIVE COSTS AND NEW DESIGNS.—The Secretary of Transportation shall investigate, determine, and keep current records of—

''(1) the relative cost of construction of comparable vessels in the United States and in foreign countries; and

''(2) new designs, new methods of construction, and new types of equipment for vessels.

''(b) RULES, CLASSIFICATIONS, AND RATINGS.—The Secretary shall examine the rules under which vessels are constructed abroad and in the United States and the methods of classifying and rating the vessels.

''(c) COLLABORATION WITH OWNERS AND BUILDERS.—The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits from standardized production where practicable and desirable.

''(d) EXPRESS-LINER AND SUPER-LINER VESSELS.—The Secretary shall study and cooperate with vessel owners in devising means by which there may be constructed, by or with the aid of the United States Government, express-liner or super-liner vessels comparable to those of other nations, especially with a view to their use in a national emergency, and the use of transoceanic aircraft service in connection with or in lieu of those vessels.

"§ 50106. Studies on the operation of vessels

''(a) RELATIVE COSTS.—The Secretary of Transportation shall investigate, determine, and keep current records of the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws and regulations of the United States and those of the foreign countries whose vessels are substantial competitors of American vessels.

''(b) SHIPYARDS.—The Secretary shall investigate, determine, and keep current records of the number, location, and efficiency of shipyards in the United States.

''(c) NAVIGATION LAWS.—The Secretary shall examine the navigation laws and regulations of the United States and make such recommendations to Congress as the Secretary considers proper for the amendment, improvement, and revision of those laws and for the development of the merchant marine of the United States.

"§ 50107. Studies on marine insurance

''The Secretary of Transportation shall—

''(1) examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies; and

''(2) ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of the merchant marine of the United States.

"§ 50108. Studies on cargo carriage and cargo containers

''(a) STUDIES.—The Secretary of Transportation shall study—

''(1) the methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States; and

''(2) the economic and technological aspects of the use of cargo containers as a method of carrying out the policy in section 50101 of this title.

''(b) RESTRICTION.—In carrying out subsection (a) and the policy in section 50101 of this title, the United States Government may not give preference as between carriers based on the length, height, or width of cargo containers or the length, height, or width of cargo container cells. This restriction applies to all existing container vessels and any container vessel to be constructed or rebuilt.

"§ 50109. Miscellaneous studies

''(a) FOREIGN SUBSIDIES.—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

''(b) LAWS APPLICABLE TO AIRCRAFT.—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

''(c) AID FOR COTTON, COAL, LUMBER, AND CEMENT.—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

''(d) INTERCOASTAL AND INLAND WATER TRANSPORTATION.—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

''(e) OBSOLETE TONNAGE AND TRAMP SERVICE.—The Secretary shall make studies and reports to Congress on—

''(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the United States Government or in use in the merchant marine; and

''(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

''(f) MORTGAGE LOANS.—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

''§ 50110. Securing preference to vessels of the United States

''(a) POSSIBILITIES OF PROMOTING CARRIAGE.—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

''(b) INDUCEMENTS TO IMPORTERS AND EXPORTERS.—The Secretary shall study and cooperate with vessel owners in devising means by which the importers and exporters of the United States can be induced to give preference to vessels of the United States.

''(c) LIAISON WITH AGENCIES AND ORGANIZATIONS.—The Secretary shall establish and maintain liaison with such other agencies of the United States Government, and with such representative trade organizations throughout the United States, as may be concerned, directly or indirectly, with any movement of commodities in the waterborne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States in the shipment of those commodities.

''§ 50111. Reports to Congress

''(a) IN GENERAL.—Not later than April 1 of each year, the Secretary of Transportation shall submit a report to Congress. The report shall include, with respect to activities of the Secretary under this subtitle, the results of investigations, a summary of transactions, a statement of all expenditures and receipts, the purposes for which all expenditures were made, and any recommendations for legislation.

''(b) ADMINISTERED AND OVERSIGHT FUNDS.—The Secretary, in the report under subsection (a) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

''(c) ADDITIONAL RECOMMENDATIONS FOR LEGISLATION.—The Secretary, from time to time, shall make recommendations to Congress for legislation the Secretary considers necessary to better achieve the objectives and policy of section 50101 of this title.

''§ 50112. National Maritime Enhancement Institutes

''(a) DESIGNATION.—The Secretary of Transportation may designate National Maritime Enhancement Institutes.

''(b) ACTIVITIES.—Activities undertaken by an institute may include—

''(1) conducting research about methods to improve the performance of maritime industries;

''(2) enhancing the competitiveness of domestic maritime industries in international trade;

''(3) forecasting trends in maritime trade;

''(4) assessing technological advancements;

''(5) developing management initiatives and training;

''(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

''(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

''(8) fostering innovations in maritime transportation pricing; and

''(9) improving maritime economics and finance.

''(c) APPLICATION FOR DESIGNATION.—An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

''(d) CRITERIA FOR DESIGNATION.—The Secretary shall designate an institute under this section on the basis of the following criteria:

''(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b).

''(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

''(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

''(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program.

''(5) The qualification of the applicant as a nonprofit institution of higher learning.

''(e) FINANCIAL AWARDS.—The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary may not exceed $500,000.

''(f) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center. In making a grant, the Secretary, through the Research and Special Programs Administration, shall advise the Maritime Administration on the availability of funds for the grants and consult with the Administration on making the grants.

''§ 50113. Use and performance reports by operators of vessels

''(a) FILING REQUIREMENT.—The Secretary of Transportation by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file such report, account, record, or memorandum on the use and performance of the vessel as the Secretary considers desirable to assist in carrying out this subtitle. The report, account, record, or memorandum shall be signed and verified, and be filed at the times and in the manner, as provided by regulation.

''(b) CIVIL PENALTY.—An operator not filing a report, account, record, or memorandum required by the Secretary under this section is liable to the United States Government for a civil penalty of $50 for each day of the violation. A penalty imposed under this section on the operator of a vessel constitutes a lien on the vessel involved in the violation. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found. The Secretary may remit or mitigate any penalty imposed under this section.

''CHAPTER 503—ADMINISTRATIVE

''Sec.
''50301. Vessel Operations Revolving Fund.
''50302. Port development.
''50303. Operating property and extending term of notes.
''50304. Sale and transfer of property.
''50305. Appointment of trustee or receiver and operation of vessels.
''50306. Requiring testimony and records in investigations.

''§ 50301. Vessel Operations Revolving Fund

''(a) IN GENERAL.—There is a 'Vessel Operations Revolving Fund' for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, repair, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of $20,000,000, to remain available until expended.

''(b) RELATIONSHIP TO OTHER LAWS.—Notwithstanding any other law, rates for shipping services provided under the Fund shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

''(c) ADVANCEMENTS.—With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation 'Salaries and Expenses' in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

''(d) TRANSFERS.—The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a), and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of those working funds or allocation accounts.

''(e) LIMITATION.—

''(1) IN GENERAL.—Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel described in paragraph (2) unless the compensation to be paid is computed under section 56303 of this title as that section is interpreted by the Comptroller General.

''(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—

''(A) the title to which is acquired by the Government by requisition or purchase;

''(B) the use of which is taken by requisition or agreement; or

''(C) lost while insured by the Government.

''(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a vessel under a construction-differential subsidy contract.

''(f) AVAILABILITY FOR ADDITIONAL PURPOSES.—The Fund is available for—

''(1) necessary expenses incurred in the protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage foreclosure or forfeiture proceedings instituted by the Government, including payment of prior claims and liens, expenses of sale, or other related charges;

''(2) necessary expenses incident to the redelivery and lay-up, in the United States, of vessels chartered as of June 20, 1956, under agreements not calling for their return to the Government;

''(3) the activation, repair, and deactivation of merchant vessels chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

''(4) payment of expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet.

''(g) EXPENSES AND RECEIPTS RELATED TO CHARTER OPERATIONS.—The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

''§ 50302. Port development

''(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

''(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

''(2) investigate the causes of congestion of commerce at ports and applicable remedies;

''(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

''(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

''(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

''(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

''(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

''§ 50303. Operating property and extending term of notes

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

''(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

''(2) make extensions and accept renewals of—

''(A) promissory notes and other evidences of indebtedness on property; and

''(B) mortgages and other contracts securing the property.

''(b) TERMS OF TRANSACTIONS.—A transaction under subsection (a) shall be on terms the Secretary considers necessary to carry out the purposes of this subtitle, but consistent with sound business practice.

''(c) AVAILABILITY OF AMOUNTS.—Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

''§ 50304. Sale and transfer of property

''(a) AUTHORITY TO SELL.—The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers appropriate.

''(b) TRANSFERS FROM MILITARY TO CIVILIAN CONTROL.—When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the second paragraph of section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of a military department.

''(c) TRANSFERS FROM CIVILIAN TO MILITARY CONTROL.—When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control shall revert to the Secretary of Transportation. The property may not be sold except as provided by law.

''§ 50305. Appointment of trustee or receiver and operation of vessels

''(a) APPOINTMENT OF TRUSTEES AND RECEIVERS.—

''(1) APPOINTMENT OF SECRETARY.—In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a vessel of United States registry between the United States and a foreign country, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if—

''(A) the court finds that the appointment will—

''(i) inure to the advantage of the estate and the parties in interest; and

''(ii) tend to carry out the purposes of this subtitle; and

''(B) the Secretary expressly consents to the appointment.

''(2) APPOINTMENT OF OTHER PERSON.—The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

''(b) OPERATION OF VESSELS.—

''(1) IN GENERAL.—If the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, and the Secretary certifies to the court that the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

''(2) PAYMENT OF OPERATING LOSSES AND OTHER AMOUNTS.—The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

''(3) DEEMED OPERATION BY GOVERNMENT.—A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the Government under chapter 309 of this title.

''§ 50306. Requiring testimony and records in investigations

''(a) IN GENERAL.—In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may administer oaths, take evidence, and subpoena persons to testify and produce documents relevant to the matter under investigation. Persons may be required to attend or produce documents from any place in the United States at any designated place of hearing.

''(b) FEES AND MILEAGE.—Persons subpoenaed by the Secretary under subsection (a) shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

''(c) ENFORCEMENT OF SUBPOENAS.—If a person disobeys a subpoena issued under subsection (a), the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

''CHAPTER 505—OTHER GENERAL PROVISIONS

''Sec.
''50501. Entities deemed citizens of the United States.
''50502. Applicability to receivers, trustees, successors, and assigns.
''50503. Oceanographic research vessels.
''50504. Sailing school vessels.

''§ 50501. Entities deemed citizens of the United States

''(a) IN GENERAL.—In this subtitle, a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States. However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.

''(b) ADDITIONAL REQUIREMENTS FOR CORPORATIONS.—In this subtitle, a corporation is deemed to be a citizen of the United States only if, in addition to satisfying the requirements in subsection (a)—

''(1) it is incorporated under the laws of the United States or a State;

''(2) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

''(3) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

''(c) DETERMINATION OF CONTROLLING CORPORATE INTEREST.—The controlling interest in a corporation is owned by citizens of the United States under subsection (a) only if—

''(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

''(2) the majority of the voting power in the corporation is vested in citizens of the United States;

''(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

''(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

''(d) DETERMINATION OF 75 PERCENT CORPORATE INTEREST.—At least 75 percent of the interest in a corporation is owned by citizens of the United States under subsection (a) only if—

''(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

''(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

''(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

''(4) there is no other means by which control of more than 25 percent of any interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

''§ 50502. Applicability to receivers, trustees, successors, and assigns

''This subtitle applies to receivers, trustees, successors, and assigns of any person to whom this subtitle applies.

''§ 50503. Oceanographic research vessels

''An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in trade or commerce.

''§ 50504. Sailing school vessels

''(a) DEFINITIONS.—In this section, the terms 'sailing school instructor', 'sailing school student', and 'sailing school vessel' have the meaning given those terms in section 2101 of this title.

''(b) NOT SEAMEN.—A sailing school student or sailing school instructor is deemed not to be a seaman under—

''(1) parts B, F, and G of subtitle II of this title; or

''(2) the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

''(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—A sailing school vessel is deemed not to be—

''(1) a merchant vessel under section 11101(a)–(c) of this title; or

''(2) a vessel engaged in trade or commerce.

''(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to meet liability for death or injury to sailing school students and sailing school instructors on a voyage on the vessel. The amount of financial responsibility shall be at least $50,000 for each student and instructor. Financial responsibility under this subsection may be evidenced by insurance or other adequate financial resources.

''PART B—MERCHANT MARINE SERVICE

''CHAPTER 511—GENERAL

''Sec.
''51101. Policy.
''51102. Definitions.
''51103. General authority of Secretary of Transportation.
''51104. General authority of Secretary of the Navy.

''§ 51101. Policy

''It is the policy of the United States Government that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

''§ 51102. Definitions

''In this part:

''(1) ACADEMY.—The term 'Academy' means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title.

''(2) COST OF EDUCATION PROVIDED.—The term 'cost of education provided' means the financial costs incurred by the United States Government for providing training or financial assistance to students at the Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.

''(3) MERCHANT MARINE OFFICER.—The term 'merchant marine officer' means an individual issued a license by the Coast Guard authorizing service as—

''(A) a master, mate, or pilot on a documented vessel that—

''(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

''(ii) operates on the oceans or the Great Lakes; or

''(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

''(4) STATE MARITIME ACADEMY.—The term 'State maritime academy' means—

''(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

''(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

''§ 51103. General authority of Secretary of Transportation

''(a) EDUCATION AND TRAINING.—The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

''(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—

''(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

''(2) INSTITUTIONS.—The institutions referred to in paragraph (1) are—

''(A) the United States Merchant Marine Academy;

''(B) a State maritime academy; and

''(C) a nonprofit training institution jointly approved by the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating as offering training courses that meet Federal regulations for maritime training.

''(c) ASSISTANCE FROM OTHER AGENCIES.—

''(1) IN GENERAL.—The Secretary of Transportation may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

''(2) DETAILING PERSONNEL.—At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

''(d) ACADEMY PERSONNEL.—To carry out this part, the Secretary may—

''(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 governing appointments in the competitive service; and

''(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

''§ 51104. General authority of Secretary of the Navy

''The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that—

''(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

''(2) naval officer training programs for future officers, insofar as possible, are maintained at designated maritime academies consistent with Navy standards and needs.

''CHAPTER 513—UNITED STATES MERCHANT MARINE ACADEMY

''Sec.
''51301. Maintenance of the Academy.
''51302. Nomination and competitive appointment of cadets.
''51303. Non-competitive appointments.
''51304. Additional appointments from particular areas.
''51305. Prohibited basis for appointment.
''51306. Cadet commitment agreements.
''51307. Places of training.
''51308. Uniforms, textbooks, and transportation allowances.
''51309. Academic degree.
''51310. Deferment of service obligation under cadet commitment agreements.
''51311. Midshipman status in the Naval Reserve.
''51312. Board of Visitors.
''51313. Advisory Board.

''§ 51301. Maintenance of the Academy

''The Secretary of Transportation shall maintain the United States Merchant Marine Academy to provide instruction to individuals to prepare them for service in the merchant marine of the United States.

''§ 51302. Nomination and competitive appointment of cadets

''(a) REQUIREMENTS.—An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual—

''(1) is a citizen or national of the United States; and

''(2) meets the minimum requirements that the Secretary of Transportation shall establish.

''(b) NOMINATORS.—Nominations for competitive appointments for the positions allocated under subsection (c) may be made as follows:

''(1) A Senator may nominate residents of the State represented by that Senator.

''(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

''(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

''(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

''(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

''(6) The Panama Canal Commission may nominate—

''(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

''(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

''(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments shall be allocated each year as follows:

''(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

''(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

''(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

''(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

''(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

''(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

''(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

''(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) to fill the positions allocated under subsection (c). The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

''(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint individuals to fill the positions allocated under subsection (c) for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

''(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

''§ 51303. Non-competitive appointments

''The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

''§ 51304. Additional appointments from particular areas

''(a) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this subsection at the same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

''(b) OTHER COUNTRIES GENERALLY.—

''(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 30 individuals may receive instruction under this subsection at the same time.

''(2) REIMBURSEMENT.—The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

''(c) PANAMA.—

''(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from Panama to receive instruction at the Academy. Individuals appointed under this subsection are in addition to those appointed under any other provision of this chapter.

''(2) REIMBURSEMENT.—The Secretary of Transportation shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual appointed under this subsection.

''(d) ALLOWANCES AND REGULATIONS.—Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

''§ 51305. Prohibited basis for appointment

''Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

''§ 51306. Cadet commitment agreements

''(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

''(1) complete the course of instruction at the Academy;

''(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

''(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

''(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

''(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

''(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

''(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subclause (A) is not available to the individual;

''(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

''(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

''(6) report to the Secretary on compliance with this subsection.

''(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has attended the Academy for at least 2 years has failed to fulfill the part of the agreement described in subsection (a)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in one of the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided by the Government.

''(c) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (a)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(d) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

''(1) request the Attorney General to bring a civil action against the individual; and

''(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

''§ 51307. Places of training

''The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—

''(1) on vessels owned or subsidized by the United States Government;

''(2) on other documented vessels, with the permission of the owner; and

''(3) in shipyards or plants and with industrial or educational organizations.

''§ 51308. Uniforms, textbooks, and transportation allowances

''The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy—

''(1) all required uniforms and textbooks; and

''(2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

''§ 51309. Academic degree

''(a) BACHELOR'S DEGREE.—

''(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

''(A) has met the conditions prescribed by the Secretary of Transportation; and

''(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

''(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only

because of physical disqualification may not be denied a degree for not taking the examination.

''(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may prescribe regulations necessary to administer such a program.

''(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

''§ 51310. Deferment of service obligation under cadet commitment agreements

''The Secretary of Transportation may defer the service commitment of an individual under section 51306(a)(5) of this title (as specified in the cadet commitment agreement) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer under section 51306(a)(5) must be approved by the Secretary of the military department that has jurisdiction over the service or by the Secretary of Commerce for service with the National Oceanic and Atmospheric Administration.

''§ 51311. Midshipman status in the Naval Reserve

''(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

''(b) APPOINTMENT.—

''(1) IN GENERAL.—A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

''(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be—

''(A) issued an identification card (referred to as a 'military ID card'); and

''(B) entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the armed forces.

''(3) COORDINATION.—The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary of Transportation.

''§ 51312. Board of Visitors

''(a) IN GENERAL.—A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of Transportation and to make recommendations on the operation of the Academy.

''(b) APPOINTMENT.—

''(1) IN GENERAL.—The Board shall be composed of—

''(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

''(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Armed Services of the House of Representatives;

''(C) 1 Senator appointed by the Vice President;

''(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

''(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives, as ex officio members.

''(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the Board is unable to visit the Academy as provided in subsection (a), another individual may be appointed as a substitute in the manner provided in paragraph (1).

''(c) STAFF.—The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

''(d) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''§ 51313. Advisory Board

''(a) IN GENERAL.—An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

''(b) APPOINTMENT AND TERMS.—The Board shall be composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board shall be appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

''(c) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

''CHAPTER 515—STATE MARITIME ACADEMY SUPPORT PROGRAM

''Sec.

''51501. General support program.
''51502. Detailing of personnel.
''51503. Regional maritime academies.
''51504. Use of training vessels.
''51505. Annual payments for maintenance and support.
''51506. Conditions to receiving payments and use of vessels.
''51507. Places of training.
''51508. Allowances for students.
''51509. Student incentive payment agreements.
''51510. Deferment of service obligation under student incentive payment agreements.
''51511. Midshipman status in the Naval Reserve.

''§ 51501. General support program

''(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

''(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

''§ 51502. Detailing of personnel

''At the request of the Governor of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

''§ 51503. Regional maritime academies

''The Governors of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

''§ 51504. Use of training vessels

''(a) APPLICATIONS TO USE VESSELS.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

''(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e). If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

''(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel under this section only if—

''(1) an application has been made under subsection (a);

''(2) the State maritime academy satisfies section 51506(a) of this title; and

''(3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

''(d) PREPARATION AND MAINTENANCE.—A vessel provided under this section shall be—

''(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

''(2) maintained in good repair by the Secretary.

''(e) AGENCY VESSELS.—An agency may provide to the Secretary, for use by a State maritime academy, a vessel (including equipment) that—

''(1) is suitable for training purposes; and

''(2) can be provided without detriment to the service to which the vessel is assigned.

''(f) FUEL COSTS.—The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

''(g) REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Secretary may not—

''(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

''(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

''§ 51505. Annual payments for maintenance and support

''(a) PAYMENT AGREEMENTS.—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

''(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

''(2) Each regional maritime academy that satisfies section 51506(a) of this title.

''(b) PAYMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

''(2) MAXIMUM.—The amount under paragraph (1) may not be more than $25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

''(A) $100,000 for a State maritime academy; and

''(B) $200,000 for a regional maritime academy.

''§ 51506. Conditions to receiving payments and use of vessels

''(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must—

''(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

''(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

''(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

''(b) ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN $25,000.—As a condition of receiving an annual payment of more than $25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

''§ 51507. Places of training

''The Secretary of Transportation may provide for the training of students attending a State maritime academy—

''(1) on vessels owned or subsidized by the United States Government;

''(2) on other documented vessels, with the permission of the owner; and

''(3) in shipyards or plants and with industrial or educational organizations.

''§ 51508. Allowances for students

''Under regulations prescribed by the Secretary of Transportation, a student at a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title.

''§ 51509. Student incentive payment agreements

''(a) GENERAL AUTHORITY.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.

''(b) PAYMENTS.—Payments under an agreement under this section shall be equal to $4,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

''(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

''(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

''(1) complete the course of instruction at the academy the individual is attending;

''(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

''(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

''(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

''(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

''(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

''(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subclause (A) is not available to the individual;

''(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

''(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

''(6) report to the Secretary on compliance with this subsection.

''(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

''(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

''(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

''(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

''(1) request the Attorney General to bring a civil action against the individual; and

''(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

''§ 51510. Deferment of service obligation under student incentive payment agreements

''The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

''§ 51511. Midshipman status in the Naval Reserve

''A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

''CHAPTER 517—OTHER SUPPORT FOR MERCHANT MARINE TRAINING

''Sec.
''51701. United States Maritime Service.
''51702. Civilian nautical schools.
''51703. Additional training.
''51704. Training for maritime oil pollution prevention, response, and clean-up.

''§ 51701. United States Maritime Service

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

''(b) SPECIFIC AUTHORITY.—The Secretary may—

''(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

''(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

''(3) prescribe the course of study and the periods of training for the Service; and

''(4) prescribe the uniform of the Service and the rules on providing and wearing the uniform.

''(c) RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

''(d) MEDALS AND AWARDS.—The Secretary may establish and maintain a medals and

awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the Service.

"§ 51702. Civilian nautical schools

''(a) DEFINITION.—In this section, the term 'civilian nautical school' means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

''(b) INSPECTION.—Each civilian nautical school is subject to inspection by the Secretary of Transportation.

''(c) RATING AND CERTIFICATION.—The Secretary may, under regulations the Secretary may prescribe, provide for the rating and certification of civilian nautical schools as to the adequacy of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

"§ 51703. Additional training

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities and make the training available to the personnel of the merchant marine of the United States and individuals preparing for a career in the merchant marine of the United States.

''(b) EQUIPMENT, SUPPLIES, AND CONTRACTS.—The Secretary may—

''(1) prepare or buy equipment or supplies required for the additional training; and

''(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

"§ 51704. Training for maritime oil pollution prevention, response, and clean-up

''(a) ASSISTANCE IN ESTABLISHING PROGRAM.—The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

''(b) PROVIDING TRAINING VESSELS.—Subject to subsection (c), the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a), offshore supply vessels and tug/supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under chapter 537 of this title.

''(c) REQUIREMENTS.—In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

''(1) The vessel shall be offered to the institution at a location selected by the Secretary.

''(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

''(3) The institution shall make the vessel and qualified students available to appropriate Federal, State, and local oil spill response authorities when there is a maritime oil spill.

''(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

''(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

''(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

"CHAPTER 519—MERCHANT MARINE AWARDS

''Sec.
''51901. Awards for individual acts or service.
''51902. Gallant Ship Award.
''51903. Multiple awards.
''51904. Presentation to representatives.
''51905. Flags and grave markers.
''51906. Special certificates for civilian service to armed forces.
''51907. Manufacture and sale of awards and replacements.
''51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

"§ 51901. Awards for individual acts or service

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

''(b) SPECIFIC AUTHORITY.—The Secretary may award—

''(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

''(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

''(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

''(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

"§ 51902. Gallant Ship Award

''(a) AWARDS TO VESSELS.—The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

''(b) AWARDS TO CREWS.—The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a).

''(c) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

"§ 51903. Multiple awards

''An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

"§ 51904. Presentation to representatives

''If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

"§ 51905. Flags and grave markers

''Except as authorized under another law, the Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency.

"§ 51906. Special certificates for civilian service to armed forces

''(a) GENERAL AUTHORITY.—The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note).

''(b) RELATIONSHIP TO OTHER LAWS.—Issuance of a certificate under subsection (a) does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

"§ 51907. Manufacture and sale of awards and replacements

''The Secretary of Transportation may—

''(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

''(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

"§ 51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards

''(a) PROHIBITION.—Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

''(b) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $2,000.

"CHAPTER 521—MISCELLANEOUS

''Sec.
''52101. Reemployment rights for certain merchant seamen.

"§ 52101. Reemployment rights for certain merchant seamen

''(a) IN GENERAL.—An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

''(b) TIME FOR APPLICATION.—An individual may submit an application for certification under subsection (c) to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

''(c) CERTIFICATION DETERMINATION.—Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall—

''(1) determine whether the individual—

''(A) was employed in the activation or operation of a vessel—

''(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

''(ii) requisitioned or purchased under chapter 563 of this title; or

''(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national

emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

''(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

''(2) if the Secretary makes affirmative determinations under paragraph (1)(A) and (B), certify that individual under this subsection.

''(d) EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFICATE.—For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

''PART C—FINANCIAL ASSISTANCE PROGRAMS''.

(c) CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by adding at the end the following:

''CHAPTER 533—CONSTRUCTION RESERVE FUNDS

''Sec.
''53301. Definitions.
''53302. Authority for construction reserve funds.
''53303. Persons eligible to establish funds.
''53304. Vessel ownership.
''53305. Eligible fund deposits.
''53306. Recognition of gain for tax purposes.
''53307. Basis for determining gain or loss and for depreciating new vessels.
''53308. Order and proportions of deposits and withdrawals.
''53309. Accumulation of deposits.
''53310. Obligation of deposits and period for construction of certain vessels.
''53311. Taxation of deposits on failure of conditions.
''53312. Assessment and collection of deficiency tax.

''§ 53301. Definitions

''(a) IN GENERAL.—In this chapter:

''(1) CONSTRUCTION CONTRACT.—The term 'construction contract' includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

''(2) NEW VESSEL.—The term 'new vessel' means—

''(A) a vessel—

''(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

''(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

''(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

''(II) constructed to replace a vessel bought or requisitioned by the Government; and

''(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

''(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

''§ 53302. Authority for construction reserve funds

''(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

''(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

''§ 53303. Persons eligible to establish funds

''A construction reserve fund may be established by a citizen of the United States that—

''(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

''(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

''(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

''(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

''(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

''§ 53304. Vessel ownership

''In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

''§ 53305. Eligible fund deposits

''A construction reserve fund may include deposits of—

''(1) the proceeds from the sale of a vessel;

''(2) indemnities for the loss of a vessel;

''(3) earnings from the operation of a documented vessel and from services incident to the operation; and

''(4) interest or other amounts accrued on deposits in the fund.

''§ 53306. Recognition of gain for tax purposes

''(a) DEFINITIONS.—In this section, the terms 'net proceeds' and 'net indemnity' mean the sum of—

''(1) the adjusted basis of the vessel; and

''(2) the amount of gain the taxpayer would recognize without regard to this section.

''(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

''(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

''(2) elects under this section not to recognize the gain.

''(c) WHEN ELECTION MUST BE MADE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer's income tax return for the taxable year in which the gain was realized.

''(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

''(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

''§ 53307. Basis for determining gain or loss and for depreciating new vessels

''Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

''§ 53308. Order and proportions of deposits and withdrawals

''In this chapter—

''(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

''(2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

''(3) if a deposit consists in part of a gain not recognized under section 53306 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

''§ 53309. Accumulation of deposits

''For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 53310 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

''§ 53310. Obligation of deposits and period for construction of certain vessels

''(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and 53309 of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c))—

''(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary of Transportation, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

''(B) the deposit is expended or obligated for expenditure under that contract;

''(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

''(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

''(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel.

''(b) ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.—In addition to the requirements of subsection (a)(1), for a vessel not constructed under a construction-differential subsidy contract or not bought from the Secretary of Transportation—

''(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at

least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c)), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

''(2) construction under the contract must be completed with reasonable dispatch thereafter.

''(c) EXTENSIONS.—The Secretary of Transportation may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

''§ 53311. Taxation of deposits on failure of conditions

''A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

''(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

''(2) the deposited gain is withdrawn before the end of that period;

''(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

''(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

''§ 53312. Assessment and collection of deficiency tax

''Notwithstanding any other provision of law, a deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

''CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

''Sec.
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''§ 53501. Definitions

''In this chapter:

''(1) AGREEMENT VESSEL.—The term 'agreement vessel' means—

''(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

''(B) a barge or container that is part of the complement of a vessel described in subclause (A) if provided for in the agreement.

''(2) ELIGIBLE VESSEL.—The term 'eligible vessel' means—

''(A) a vessel—

''(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

''(ii) documented under the laws of the United States; and

''(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

''(B) a commercial fishing vessel—

''(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

''(ii) of at least 2 net tons but less than 5 net tons;

''(iii) owned by a citizen of the United States;

''(iv) having its home port in the United States; and

''(v) operated in the commercial fisheries of the United States.

''(3) JOINT REGULATIONS.—The term 'joint regulations' means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

''(4) NONCONTIGUOUS TRADE.—The term 'noncontiguous trade' means—

''(A) trade between—

''(i) one of the contiguous 48 States; and

''(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

''(B) trade between—

''(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

''(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

''(5) QUALIFIED VESSEL.—The term 'qualified vessel' means—

''(A) a vessel—

''(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

''(ii) documented under the laws of the United States; and

''(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; and

''(B) a commercial fishing vessel—

''(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

''(ii) of at least 2 net tons but less than 5 net tons;

''(iii) owned by a citizen of the United States;

''(iv) having its home port in the United States; and

''(v) operated in the commercial fisheries of the United States.

''(6) SECRETARY.—The term 'Secretary' means—

''(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

''(B) the Secretary of Transportation with respect to other vessels.

''(7) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

''(8) VESSEL.—The term 'vessel' includes—

''(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

''(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

''§ 53502. Regulations

''(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

''(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

''§ 53503. Establishing a capital construction fund

''(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

''(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

''§ 53504. Deposits and withdrawals

''(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

''(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person's taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

''§ 53505. Ceiling on deposits

''(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

''(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

''(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

''(3) if the transaction is not taken into account for purposes of clause (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

''(4) the receipts from the investment or reinvestment of amounts held in the fund.

''(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

''§ 53506. Investment and fiduciary requirements

''(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository

specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

''(b) STOCK INVESTMENTS.—

''(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

''(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

''(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

''(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

''(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

''§ 53507. Nontaxation of deposits

''(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

''(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

''(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

''(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

''(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

''(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

''(b) CONDITION.—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

''§ 53508. Separate accounts within a fund

''(a) IN GENERAL.—A capital construction fund shall have three accounts:

''(1) The capital account.

''(2) The capital gain account.

''(3) The ordinary income account.

''(b) CAPITAL ACCOUNT.—The capital account shall consist of—

''(1) amounts referred to in section 53505(a)(2) of this title;

''(2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;

''(3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

''(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

''(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

''(1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

''(2) amounts representing capital losses on assets held in the fund for more than 6 months.

''(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

''(1) amounts referred to in section 53505(a)(1) of this title;

''(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

''(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

''(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in clause (5)) received on assets held in the fund;

''(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

''(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

''(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

''§ 53509. Qualified withdrawals

''(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

''(1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

''(2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

''(b) BARGES AND CONTAINERS.—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

''(c) TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

''§ 53510. Tax treatment of qualified withdrawals and basis of property

''(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

''(1) first from the capital account;

''(2) second from the capital gain account; and

''(3) third from the ordinary income account.

''(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

''(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

''(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

''(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

''§ 53511. Tax treatment of nonqualified withdrawals

''(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

''(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

''(1) first from the ordinary income account;

''(2) second from the capital gain account; and

''(3) third from the capital account.

''(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

''(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

''(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

''(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

''(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

''(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

''(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

''(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between—

''(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

''(2) the money rates and investment yields for the calendar year 1970.

''(e) NONQUALIFIED WITHDRAWALS.—

''(1) IN GENERAL.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

''If the amount remains in the fund at	*The applicable percentage is—*
the close of the—	
''26th taxable year	*20 percent*
''27th taxable year	*40 percent*
''28th taxable year	*60 percent*
''29th taxable year	*80 percent*
''30th taxable year	*100 percent.*

''(2) EARNINGS.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

''(3) CONTRACT FOR QUALIFIED WITHDRAWAL.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

''(4) EXCESS EARNINGS.—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

''(5) AMOUNTS IN FUND ON JANUARY 1, 1987.—Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on that date.

''(f) TAX DETERMINATIONS.—

''(1) IN GENERAL.—For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by—

''(A) excluding the withdrawal from gross income; and

''(B) increasing the tax imposed by chapter 1 of such Code by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of such Code (26 U.S.C. 1, 11).

''(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under subparagraph (A)(ii) may not exceed 15 percent (or 34 percent for a corporation).

''(3) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs—

''(A) that portion shall not be taken into account under paragraph (1); and

''(B) an amount equal to that portion shall be allowed as a deduction under section 172 of such Code (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

''(4) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—A nonqualified withdrawal excluded from gross income under paragraph (1) shall be excluded in determining taxable income under section 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

''§ 53512. FIFO and LIFO withdrawals

''(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

''(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

''(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

''(2) an amount treated as a nonqualified withdrawal under section 53510(d) of this title.

''§ 53513. Corporate reorganizations and partnership changes

''Under joint regulations—

''(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

''(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of such Code (26 U.S.C. 701 et seq.)).

''§ 53514. Relationship of old fund to new fund

''(a) DEFINITION.—In this section, the term 'old fund' means a capital construction fund maintained before October 21, 1970.

''(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old fund may elect to continue the old fund, but may not—

''(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

''(2) maintain simultaneously the old fund and a new fund established under this chapter.

''(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 53511(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

''§ 53515. Records and reports

''A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

''§ 53516. Termination of agreement after change in regulations

''If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

''§ 53517. Reports

''(a) IN GENERAL.—Within 120 days after the close of each calendar year, the Secretary of Transportation and the Secretary of Commerce each shall provide the Secretary of the Treasury a written report on the capital construction funds under the particular Secretary's jurisdiction for the calendar year.

''(b) CONTENTS.—The report shall state the name and taxpayer identification number of each person—

''(1) establishing a capital construction fund during the calendar year;

''(2) maintaining a capital construction fund on the last day of the calendar year;

''(3) terminating a capital construction fund during the calendar year;

''(4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or

''(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

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''SUBCHAPTER I—GENERAL

''§ 53701. Definitions

''In this chapter:

''(1) ACTUAL COST.—The term 'actual cost' means the sum of—

''(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

''(B) all amounts that the Secretary reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

''(2) CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.—The terms 'construction', 'reconstruction', and 'reconditioning' include designing, inspecting, outfitting, and equipping.

''(3) DEPRECIATED ACTUAL COST.—The term 'depreciated actual cost' of a vessel means—

''(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary, not to exceed 25 years from the date of delivery by the builder; or

''(B) if the vessel was reconstructed or reconditioned, the sum of—

''(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary; and

''(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary.

''(4) ELIGIBLE EXPORT VESSEL.—The term 'eligible export vessel' means a vessel that—

''(A) is constructed, reconstructed, or reconditioned in the United States for use in worldwide trade; and

''(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

''(5) FISHERY FACILITY.—

''(A) IN GENERAL.—Subject to paragraph (B), the term 'fishery facility' means—

''(i) for operations on land—

''(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

''(II) the land necessary for the structure or appurtenance; and

''(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (I);

''(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

''(iii) for aquaculture, including operations on land or elsewhere—

''(I) a structure or appurtenance thereto designed for aquaculture;

''(II) the land necessary for the structure or appurtenance;

''(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (I); and

''(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

''(B) REQUIRED OWNERSHIP.—Under paragraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

''(i) an individual who is a citizen of the United States; or

''(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

''(6) FISHING VESSEL.—The term 'fishing vessel' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

''(7) MORTGAGE.—The term 'mortgage' includes—

''(A) a preferred mortgage as defined in section 31301 of this title; and

''(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

''(8) OBLIGATION.—The term 'obligation' means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

''(A) an obligation issued by the Secretary under section 53723 of this title; and

''(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

''(9) OBLIGEE.—The term 'obligee' means the holder of an obligation.

''(10) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on an obligation.

''(11) OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.—The term 'ocean thermal energy conversion facility or plantship' means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

''(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

''(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

''(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

''(12) SECRETARY.—The term 'Secretary' means—

''(A) the Secretary of Commerce with respect to fishing vessels and fishery facilities; and

''(B) the Secretary of Transportation with respect to other vessels and general shipyard facilities (as defined in section 53733(a) of this title).

''(13) VESSEL.—The term 'vessel' means any type of vessel, whether in existence or under construction, including—

''(A) a cargo vessel;

''(B) a passenger vessel;

''(C) a combination cargo and passenger vessel;

''(D) a tanker;

''(E) a tug or towboat;

''(F) a barge;

''(G) a dredge;

''(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

''(I) an oceanographic research vessel;

''(J) an instruction vessel;

''(K) a pollution treatment, abatement, or control vessel;

''(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

''(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

''§ 53702. General authority

''(a) IN GENERAL.—The Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

''(b) DIRECT LOANS FOR FISHERIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

''(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

''§ 53703. Application procedures

''(a) TIME FOR DECISION.—

''(1) IN GENERAL.—The Secretary shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary.

''(2) EXTENSION.—On request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary.

''(b) CERTIFICATION OF REVIEW.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

''§ 53704. Funding limits

''(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. Of that amount—

''(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

''(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

''(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

''(c) LIMITS BASED ON RISK FACTORS.—

''(1) DEFINITION.—In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

''(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

''(A) establish, and update annually, a system of risk categories for obligations guaranteed under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

''(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

''(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

''(3) USE OF SYSTEM.—

''(A) PLACING OBLIGATION IN CATEGORY.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

''(B) REDUCTION OF AVAILABLE AMOUNT.—The Secretary shall consider the total amount available to the Secretary for making guarantees under this chapter to be reduced by the amount determined by multiplying—

''(i) the amount guaranteed under this chapter for an obligation; by

''(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

''(C) ESTIMATED COST.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

''(D) RESTRICTION ON FURTHER GUARANTEES.—The Secretary may not guarantee obligations under this chapter after the total amount available to the Secretary under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

''(4) RISK FACTORS.—The risk factors referred to in this subsection are—

''(A) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation;

''(B) the period for which an obligation is guaranteed or to be guaranteed;

''(C) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

''(D) the financial condition of an obligor or applicant for a guarantee;

''(E) if applicable, other guarantees related to the project;

''(F) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

''(G) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

''(H) the collateral provided for a guarantee for an obligation;

''(I) the management and operating experience of an obligor or applicant for a guarantee;

''(J) whether a guarantee under this chapter is or will be in effect during the construction period of the project; and

''(K) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers.

''§ 53705. Pledge of United States Government

''(a) FULL FAITH AND CREDIT.—The full faith and credit of the United States Government is pledged to the payment of a guarantee made under this chapter, for both principal and interest, including interest (as may be provided for in the guarantee) accruing between the date of default under a guaranteed obligation and the date of payment in full of the guarantee.

''(b) INCONTESTABILITY.—A guarantee or commitment to guarantee made under this chapter is conclusive evidence of the eligibility of the obligation for the guarantee. The validity of a guarantee or commitment to guarantee made under this chapter is incontestable.

''§ 53706. Eligible purposes of obligations

''(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

''(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel) designed principally for research, or for commercial use—

''(i) in the coastwise or intercoastal trade;

''(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

''(iii) in foreign trade as defined in section 109(b) of this title;

''(iv) as an ocean thermal energy conversion facility or plantship;

''(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels; or

''(vi) as an eligible export vessel in worldwide trade.

''(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

''(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

''(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

''(A) for which an obligation was guaranteed under this chapter; and

''(B) that, under subchapter II of this chapter—

''(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

''(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

''(iii) was sold at foreclosure begun by the Secretary.

''(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

''(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in clauses (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

''(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

''(7) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the purchase of an individual fishing quota in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

''(b) NON-VESSELS TREATED AS VESSELS.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

''(c) PRIORITIES FOR CERTAIN VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Secretary shall give priority to—

''(1) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

''(2) after applying clause (1), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

''(A) is suitable for service as a naval auxiliary in time of war or national emergency; and

''(B) meets a shortfall in sealift capacity or capability.

''§ 53707. Findings related to obligors and operators

''(a) RESPONSIBLE OBLIGOR.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

''(b) OPERATORS OF LINER VESSELS.—The Secretary of Transportation may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

''(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

''(2) a violation of part B of subtitle IV of this title.

''(c) OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

''(1) held liable or liable in rem for a civil penalty under section 1858 of title 16 and not paid the penalty;

''(2) found guilty of an offense under section 1859 of title 16 and not paid the assessed fine or served the assessed sentence;

''(3) held liable for a civil or criminal penalty under section 1375 of title 16 and not paid the assessed fine or served the assessed sentence; or

''(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

''(d) WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

''(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

''(2) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

''§ 53708. Findings related to economic soundness

''(a) BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Secretary shall consider—

''(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

''(2) the market potential for employment of the vessel over the life of the guarantee;

''(3) projected revenues and expenses associated with employment of the vessel;

''(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

''(5) other relevant criteria; and

''(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

''(b) BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

''(1) the property or project for which the obligation will be executed will be economically sound; and

''(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

''(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

''(B) the need for technical improvements, including increased fuel efficiency or improved safety.

''(c) USED FISHING VESSELS AND FACILITIES.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be—

''(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

''(2) used—

''(A) in the harvesting of fish from an underused fishery; or

''(B) for a purpose described in the definition of 'fishery facility' in section 53701 of this title with respect to an underused fishery.

''(d) INDEPENDENT ANALYSIS.—The Secretary may make a determination that aspects of an

application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary.

''(e) ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.—Notwithstanding any other provision of this chapter, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

''§ 53709. Amount of obligations

''(a) IN GENERAL.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

''(1) the amount paid by or for the account of the obligor (as determined by the Secretary, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

''(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

''(b) LIMITATIONS ON AMOUNT BORROWED.—

''(1) IN GENERAL.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter may not exceed 75 percent of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel used as security for the guarantee.

''(2) CERTAIN APPROVED VESSELS.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—

''(A) the size and speed of the vessel are approved by the Secretary;

''(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and

''(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

''(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

''(4) FISHING VESSELS AND FISHERY FACILITIES.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

''(5) OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

''(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

''(c) SECURITY INVOLVING MULTIPLE VESSELS.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

''(d) PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS.—The Secretary may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

''(e) PROHIBITION ON MINIMUM PRINCIPAL AMOUNT.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

''§ 53710. Contents of obligations

''(a) IN GENERAL.—An obligation guaranteed under this chapter must—

''(1) provide for payments by the obligor satisfactory to the Secretary;

''(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

''(3) have a maturity date satisfactory to the Secretary, but—

''(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

''(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

''(i) 25 years after the date of delivery of the vessel; or

''(ii) the remaining years of useful life of the vessel as determined by the Secretary; and

''(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

''(A) in class A–1, American Bureau of Shipping, or meet other standards acceptable to the Secretary, with all required certificates, including marine inspection certificates of the Coast Guard or, in the case of an eligible export vessel, of the appropriate national flag authorities under a treaty, convention, or other international agreement to which the United States Government is a party, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary permits a deferment of repairs necessary to meet these requirements; and

''(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

''(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

''(1) IN GENERAL.—With the Secretary's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

''(A) the only recourse by the Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

''(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

''(2) SURRENDER OF VESSEL.—

''(A) IN GENERAL.—On surrender, the vessel must be—

''(i) free and clear of all liens and encumbrances except the security interest conveyed to the Secretary under this chapter;

''(ii) in class; and

''(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

''(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

''(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS.—An obligation guaranteed under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

''§ 53711. Security interest

''(a) IN GENERAL.—The Secretary may guarantee an obligation under this chapter only if the obligor conveys or agrees to convey to the Secretary a security interest the Secretary considers necessary to protect the interest of the United States Government.

''(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary may require such payments of principal prior to maturity, with respect to all related obligations, as the Secretary considers necessary to maintain adequate security for the guarantee.

''§ 53712. Monitoring financial condition and operations of obligor

''(a) IN GENERAL.—The Secretary shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, the Secretary shall take appropriate action under subsection (b). If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary while ensuring that program objectives are met.

''(b) CONTRACT PROVISIONS TO PROTECT SECRETARY.—The Secretary shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

''§ 53713. Administrative fees

''(a) IN GENERAL.—The Secretary shall charge and collect from the obligor fees the Secretary considers reasonable for—

''(1) investigating an application for a guarantee;

''(2) appraising property offered as security for a guarantee;

''(3) issuing a commitment;

''(4) providing services related to an escrow fund under section 53715 of this title; and

''(5) inspecting property during construction, reconstruction, or reconditioning.

''(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

''(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

''(1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

''(2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) remain available until expended.

''§ 53714. Guarantee fees

''(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

''(b) COMPUTATION OF FEE.—

''(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

''(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

''(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

''(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

''(B) the fee rate set under paragraph (4).

''(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary shall establish a formula that—

''(A) takes into account the security provided for the guaranteed obligation; and

''(B) is a sliding scale based on the creditworthiness of the obligor, using—

''(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

''(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

''(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

''(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

''(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

''(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

''(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

''(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

''§ 53715. Escrow fund

''(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

''(1) the excess of—

''(A) the principal amount of all obligations whose proceeds are to be so used; over

''(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

''(2) any interest the Secretary may require on the amount described in clause (1).

''(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary.

''(c) DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—

''(1) PURPOSES.—The Secretary shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

''(A) pay amounts the obligor is obligated to pay for—

''(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

''(ii) interest on the obligations;

''(B) redeem the obligations under a refinancing guaranteed under this chapter; and

''(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

''(2) MANNER OF PAYMENT.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section 53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

''(d) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

''(1) IN GENERAL.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

''(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

''(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

''(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

''(A) prepay the excess of—

''(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

''(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

''(B) pay interest on that prepaid amount of principal.

''(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

''(f) INVESTMENT.—The Secretary may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

''(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary considers necessary to protect fully the interests of the Government.

''§ 53716. Deposit fund

''(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

''(b) AGREEMENT.—The Secretary and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

''(1) terms and conditions required by this section;

''(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

''(3) any additional terms considered by the Secretary to be necessary to protect fully the interests of the Government.

''(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

''(d) WITHDRAWALS.—

''(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary.

''(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

''(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

''§ 53717. Management of funds in the Treasury

''(a) DEFINITION.—In this section, the term 'FCRA' means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

''(b) LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.—

''(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

''(2) WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

''(c) LOAN GUARANTEES BY SECRETARY OF COMMERCE.—

''(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

''(2) WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

''(d) DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall account for payments and disbursements involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

''§ 53718. Annual report to Congress

''The Secretary of Transportation shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

''(1) the size, in dollars, of the portfolio of loans guaranteed;

''(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

''(3) the number and type of projects covered;

''(4) a profile of pending loan applications;

''(5) the amount of appropriations available for new guarantees;

''(6) a profile of each project approved since the last report; and

''(7) a profile of any defaults since the last report.

''SUBCHAPTER II—DEFAULT PROVISIONS

''§ 53721. Rights of obligee

''(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

''(1) a period that may be specified in the guarantee or a related agreement; or

''(2) 90 days from the date of the default.

''(b) PAYMENTS BY SECRETARY.—

''(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 30 days from the date of the demand.

''(2) IF NO EXISTING DEFAULT.—The Secretary is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary finds that the obligor was not in default or that the default was remedied before the demand.

''(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee's agent may not demand payment under this section if the Secretary, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor's rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary's assumption.

''§ 53722. Actions by Secretary

''(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary and the obligor, the Secretary, on terms that may be provided in the obligation or agreement, may—

''(1) assume the obligor's rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the Secretary's assumption; or

''(2) notify the obligee or the obligee's agent of the default.

''(b) DEMANDS BY OBLIGEES.—

''(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 60 days from the date of the Secretary's notice.

''(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

''(A) a period that may be specified in the guarantee or a related agreement; or

''(B) 30 days from the date of the demand.

''(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary.

''(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary shall conduct operations under this chapter in a manner that—

''(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

''(2) minimizes the amount of any loss realized in the resolution of the guarantee;

''(3) ensures adequate competition and fair and consistent treatment of offerors; and

''(4) requires appraisal of assets by an independent appraiser.

''§ 53723. Payments by Secretary and issuance of obligations

''(a) CASH PAYMENT.—Amounts required to be paid by the Secretary under section 53721 or 53722 of this title shall be paid in cash.

''(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary may issue obligations to the Secretary of the Treasury. The Secretary, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

''(c) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

''(d) DEPOSITS AND REDEMPTIONS.—The Secretary shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

''§ 53724. Rights to secured property

''(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary acquires the rights under the security agreement with the obligor in the security held by the Secretary to guarantee the obligation.

''(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary has the right, in the Secretary's discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary.

''§ 53725. Actions against obligor

''(a) IN GENERAL.—For a default under a guaranteed obligation or related agreement, the Secretary may take any action against the obligor or another liable party that the Secretary considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the Government or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

''(b) TITLE, POSSESSION, AND PURCHASE.—

''(1) IN GENERAL.—The Secretary may—

''(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary; and

''(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

''(2) PAYMENT OF EXCESS.—If, through the sale of property, the Secretary receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary shall pay the excess to the obligor.

''SUBCHAPTER III—PARTICULAR PROJECTS

''§ 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships

''(a) IN GENERAL.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

''(b) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

''(c) ECONOMIC SOUNDNESS.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

''(d) REASONABLENESS OF RISK.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Secretary, certifies to the Secretary that, for the facility or

plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

''(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

''(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

''(e) AMOUNT OF OBLIGATION.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

''(1) the actual cost or depreciated actual cost of the facility or plantship; or

''(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual cost or depreciated actual cost for which the obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

''(f) OTEC DEMONSTRATION FUND.—

''(1) IN GENERAL.—There is a special subaccount, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

''(2) USE AND OPERATION.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

''(A) amounts received by the Secretary under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

''(B) when obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

''(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund.

''(4) LIABILITY.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

''(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed $1,650,000,000.

''(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

''(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

''§ 53732. Eligible export vessels

''(a) APPLICABLE TERMS.—The Secretary may guarantee an obligation for an eligible export vessel in accordance with—

''(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

''(2) other terms the Secretary determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

''(b) INTERAGENCY COUNCIL.—

''(1) ESTABLISHMENT.—There is an interagency council to carry out this section.

''(2) COMPOSITION.—The council is composed of the following individuals or their designees:

''(A) The Secretary of Transportation, who is the chairman of the council.

''(B) The Secretary of the Treasury.

''(C) The Secretary of State.

''(D) The Assistant to the President for Economic Policy.

''(E) The United States Trade Representative.

''(F) The President and Chairman of the Export-Import Bank of the United States.

''(3) FUNCTIONS.—The council shall—

''(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

''(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

''(C) provide guidance to the Secretary in establishing terms for loan guarantees under subsection (a)(2).

''(4) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary shall submit to Congress a report on activities of the Secretary under this section during the preceding year. The report shall include—

''(A) documentation of sources of information about assistance by governments of other countries to shipyards in those countries; and

''(B) a summary of recommendations made to the Secretary during the preceding year about applications submitted to the Secretary during that year for loan guarantees to construct eligible export vessels.

''(c) REQUIRED FINDINGS.—

''(1) BENEFIT TO SHIPBUILDING INDUSTRY.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the construction, reconstruction, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

''(2) PRIORITY OF DOCUMENTED VESSELS.—The Secretary may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary determines that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion in making the determination. In making the determination, the Secretary shall consider—

''(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

''(B) the amount of guarantee authority available.

''(d) RESTRICTION ON TRANSFER OF VESSEL.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

''(e) REVIEW BY SECRETARY OF DEFENSE.—

''(1) NOTIFICATION.—The Secretary shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

''(2) DISAPPROVAL.—The Secretary of Defense, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary may not disapprove a guarantee solely because of the type of vessel to be constructed.

''(3) DELEGATION.—The authority of the Secretary of Defense to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

''(4) PROHIBITION.—The Secretary may not make a loan guarantee disapproved by the Secretary of Defense under this subsection.

''(f) EXPIRATION OF AUTHORITY.—The Secretary may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

''§ 53733. Shipyard modernization and improvement

''(a) DEFINITIONS.—In this section:

''(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term 'advanced shipbuilding technology' includes—

''(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

''(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

''(2) GENERAL SHIPYARD FACILITY.—The term 'general shipyard facility' means—

''(A) for operations on land—

''(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

''(ii) the land necessary for the structure or appurtenance; and

''(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (i); and

''(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subclause (A)(i).

''(3) MODERN SHIPBUILDING TECHNOLOGY.—The term 'modern shipbuilding technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

''(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

''(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

''(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

''(e) TRANSFER OF AMOUNTS.—The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

''§ 53734. Replacement of vessels because of changes in operating standards

''(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

''(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

''(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

''(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

''(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

''(5) the Secretary has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

''(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

''(7) the Secretary has considered the criteria specified in section 53708(a)(3)–(5) of this title.

''(b) TERM AND AMOUNT OF OBLIGATION.—

''(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

''(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Secretary may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

''(c) APPLICABILITY OF OTHER PROVISIONS.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

''(d) SECURITY AGAINST DEFAULT.—The Secretary shall require by regulation that an applicant under this section provide adequate security against default.

''(e) GUARANTEE FEES.—The Secretary may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

''(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

''(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

''§ 53735. Fisheries financing and capacity reduction

''(a) DEFINITION.—In this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

''(b) GUARANTEE AUTHORITY.—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

''(c) REQUIREMENTS OF OBLIGATIONS.—A debt obligation guaranteed under this section shall—

''(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

''(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

''(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

''(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

''(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

''(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

''(d) FISHING CAPACITY REDUCTION FUND.—

''(1) IN GENERAL.—There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

''(2) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

''(3) INVESTMENT.—Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States Government.

''(e) REGULATIONS.—The Secretary shall prescribe regulations the Secretary considers necessary to carry out this section.

''CHAPTER 539—WAR RISK INSURANCE

''Sec.
''53901. Definitions.
''53902. Authority to provide insurance.
''53903. Insurable interests.
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''§ 53901. Definitions

''In this chapter:

''(1) AMERICAN VESSEL.—The term 'American vessel' includes—

''(A) a documented vessel with a registry or coastwise endorsement under chapter 121 of this title;

''(B) an undocumented vessel owned or chartered by or made available to the United States Government; and

''(C) a tug, barge, or other watercraft (whether or not documented) owned by a citizen of the United States and used in essential water transportation or in the fisheries, except only for sport fishing.

''(2) CARGO.—The term 'cargo' includes a loaded or empty container on a vessel.

''(3) TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE UNITED STATES.—The term 'transportation in the waterborne commerce of the United States' includes the operation of a vessel in the fisheries, except only for sport fishing.

''(4) WAR RISKS.—The term 'war risks' includes, to the extent the Secretary of Transportation determines—

''(A) any part of a loss excluded from marine insurance coverage under a 'free of capture or seizure' clause or analogous clause; and

''(B) any other loss from a hostile act, including confiscation, expropriation, nationalization, or deprivation.

''§ 53902. Authority to provide insurance

''(a) IN GENERAL.—With the approval of the President, and after such consultation with interested agencies of United States Government as the President may require, the Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter whenever it appears to the Secretary that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States.

''(b) CONSIDERATION OF RISK.—Insurance or reinsurance under this chapter shall be based, insofar as practicable, on consideration of the risk involved.

''(c) AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.—Insurance or reinsurance for a vessel may be provided under this chapter only on the condition that the vessel will be available to the Government in time of war or national emergency.

''§ 53903. Insurable interests

''(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

''(1) an American vessel, including a vessel under construction;

''(2) a foreign vessel—

''(A) owned by a citizen of the United States; or

''(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

''(3) cargo—

''(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

''(B) owned by a citizen or resident of the United States;

''(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

''(D) shipped between ports in the United States;

''(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

''(5) personal effects of an individual on a vessel insurable under this section;

''(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

''(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

''(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

''(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

''§ 53904. Liability insurance for persons involved in war or defense efforts

''(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

''(1) is required in prosecuting a war or for national defense; and

''(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

''(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

''§ 53905. Agency insurance

''(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

''(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

''(c) PRESIDENTIAL APPROVAL.—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

''§ 53906. Hull insurance valuation

''(a) STATED VALUATION.—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

''(1) shall exclude national defense features paid for by the United States Government; and

''(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

''(b) REJECTING STATED VALUATION.—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

''(c) AMOUNT OF CLAIM.—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

''(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

''(2) may bring a civil action against the Government in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

''(d) ADJUSTING PREMIUMS.—If a court makes a determination as provided under subsection (c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

''§ 53907. Reinsurance

''(a) IN GENERAL.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

''(b) RATES.—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

''§ 53908. Additional insurance privately obtained

''With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

''§ 53909. War risk insurance revolving fund

''(a) IN GENERAL.—There is a war risk insurance revolving fund in the Treasury.

''(b) DEPOSITS.—There shall be deposited in the fund amounts appropriated to carry out this chapter and amounts received in carrying out this chapter.

''(c) PAYMENTS.—There shall be paid from the fund amounts for return premiums, losses, settlements, judgments, and all liabilities incurred by the United States Government under this chapter.

''(d) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest or reinvest any part of the fund in securities of the Government or securities whose principal and interest are guaranteed by the Government. Interest and benefits from the securities shall be deposited in the fund.

''§ 53910. Administrative

''(a) ACCORDANCE WITH COMMERCIAL PRACTICE.—In carrying out this chapter, the Secretary of Transportation may act in accordance with commercial practice in the marine insurance business.

''(b) REGULATIONS.—The Secretary may prescribe regulations the Secretary considers appropriate to carry out this chapter.

''(c) POLICIES, RATES, AND ANNUAL FEES.—The Secretary may prescribe and change forms and policies, and fix and change the amounts insured and rates of premium, under this chapter.

''(d) ANNUAL FEES.—The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts under this chapter.

''(e) PAYMENT OF CLAIMS AND JUDGMENTS.—The Secretary may settle and pay claims, and pay judgments against the United States Government, related to insurance under this chapter.

''(f) UNDERWRITING AGENTS.—

''(1) IN GENERAL.—The Secretary may, and when the Secretary finds it practical to do so shall, employ a domestic company or group of domestic companies, authorized to do marine insurance business in a State of the United States, to act as underwriting agent for the Secretary. The services of an underwriting agent may be used in adjusting claims, but a claim may not be paid until approved by the Secretary.

''(2) COMPENSATION.—The Secretary may allow the company or group of companies reasonable compensation for services as the underwriting agent. The compensation may include an allowance for expenses reasonably incurred by the agent, but may not include any amount for soliciting or stimulating business.

''(g) FEES FOR ARRANGING INSURANCE.—Except as provided in subsection (f)(2), the Secretary may not pay an insurance broker or other person acting in a similar intermediary capacity a fee or other consideration for participating in arranging insurance when the Secretary directly insures any of the risk.

''(h) EMPLOYMENT OF MARINE INSURANCE EXPERTS.—The Secretary, without regard to the laws and regulations on the employment of Federal employees, may appoint and prescribe the duties of experts in marine insurance as the Secretary considers necessary to carry out this chapter.

''(i) SERVICES OF OTHER GOVERNMENT AGENCIES.—With the consent of another Government agency, the Secretary may use information, services, facilities, officers, and employees of the agency in carrying out this chapter.

''(j) VESSEL LOCATION REPORTING.—The Secretary may prescribe by regulation vessel location reporting requirements for a vessel insured under this chapter.

''§ 53911. Civil actions for losses

''(a) IN GENERAL.—If there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States Government in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

''(b) EXCLUSIVE REMEDY.—A civil action against the Government under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

''(c) PROCEDURE.—A civil action under this section shall be heard and determined under chapter 309 of this title.

''(d) TOLLING OF LIMITATIONS PERIOD.—If a claim is filed with the Secretary of Transportation, the running of the limitations period for bringing a civil action is suspended until the

Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

''(e) INTERPLEADER.—If the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Federal Register discharges the Government from further liability to all persons.

''§ 53912. Expiration date

''The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on June 30, 2005.

''PART D—PROMOTIONAL PROGRAMS

''CHAPTER 551—COASTWISE TRADE

''Sec.
''55101. Application of coastwise laws.
''55102. Transportation of merchandise.
''55103. Transportation of passengers.
''55104. Transportation of passengers between Puerto Rico and other ports in the United States.
''55105. Transportation of hazardous waste.
''55106. Merchandise transferred between barges.
''55107. Empty cargo containers and barges.
''55108. Platform jackets.
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''55110. Transportation of dredged material.
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''55112. Vessel escort operations and towing assistance.
''55113. Use of foreign documented oil spill response vessels.
''55114. Unloading fish from foreign vessels.
''55115. Supplies on fish processing vessels.
''55116. Canadian rail lines.
''55117. Great Lakes rail route.
''55118. Foreign railroads whose road enters by ferry, tugboat, or towboat.
''55119. Yukon River.
''55120. Transshipment of imported merchandise intended for immediate exportation.

''§ 55101. Application of coastwise laws

''(a) IN GENERAL.—Except as provided in subsection (b), the coastwise laws apply to the United States, including the island territories and possessions of the United States.

''(b) EXCEPTIONS.—The coastwise laws do not apply to—

''(1) the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands; or

''(2) American Samoa.

''§ 55102. Transportation of merchandise

''(a) DEFINITION.—In this section, the term 'merchandise' includes—

''(1) merchandise owned by the United States Government, a State, or a subdivision of a State; and

''(2) valueless material.

''(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

''§ 55103. Transportation of passengers

''(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States, either directly or via a foreign port, unless the vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) PENALTY.—The penalty for violating subsection (a) is $300 for each passenger transported and landed.

''§ 55104. Transportation of passengers between Puerto Rico and other ports in the United States

''(a) DEFINITIONS.—In this section:

''(1) CERTIFICATE.—The term 'certificate' means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

''(2) PASSENGER VESSEL.—The term 'passenger vessel' means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

''(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

''(c) EXPIRATION OF EXEMPTION.—

''(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

''(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

''(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

''(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

''§ 55105. Transportation of hazardous waste

''(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

''(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

''(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign-flag ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

''(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

''(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the flag nation. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by the flag nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of the department in which the Coast Guard is operating.

''(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

''§ 55106. Merchandise transferred between barges

''(a) IN GENERAL.—On terms and conditions the Secretary of Homeland Security may prescribe by regulation, the Secretary may suspend the application of section 55102 of this title to the transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

''(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

"§ 55107. Empty cargo containers and barges

''(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

''(1) empty cargo vans, empty lift vans, or empty shipping tanks;

''(2) equipment for use with cargo vans, lift vans, or shipping tanks;

''(3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;

''(4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

''(5) stevedoring equipment and material.

''(b) CONDITIONS.—

''(1) CLAUSES (1)–(4).—Clauses (1)–(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

''(2) CLAUSE (5).—Clause (5) of subsection (a) applies only if the items named are—

''(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

''(B) transported without charge for use in the handling of cargo in foreign trade.

''(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

"§ 55108. Platform jackets

''(a) DEFINITIONS.—In this section:

''(1) COASTWISE QUALIFIED VESSEL.—The term 'coastwise qualified vessel' means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

''(2) PLATFORM JACKET.—The term 'platform jacket' refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

''(A) platform jackets;

''(B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);

''(C) hull (including vertical legs and connecting pontoons or vertical cylinder);

''(D) tower and base sections of a platform jacket;

''(E) jacket structures; and

''(F) deck modules (known as 'topsides').

''(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

''(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

''(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

''(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

''(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

''(A) describing the project and the platform jacket involved;

''(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

''(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and

''(2)(A) no information is submitted to the Secretary within that 30 day period; or

''(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

"§ 55109. Dredging

''(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

''(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

''(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

''(3) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

''(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

"§ 55110. Transportation of dredged material

''Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

"§ 55111. Towing

''(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

''(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

''(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

''(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

''(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

''(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

''(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

''(c) PENALTIES.—

''(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least $350 but not more than $1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

''(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of $60 per ton based on the tonnage of each towed vessel.

"§ 55112. Vessel escort operations and towing assistance

''(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

''(1) Operations that commence or terminate at a port or place in the United States.

''(2) Operations required by United States law or regulation.

''(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

''(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

''(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

''(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

''(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

''(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

"§ 55113. Use of foreign documented oil spill response vessels

''Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

''(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

''(2) the foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of the foreign country under this section.

"§ 55114. Unloading fish from foreign vessels

''(a) PROHIBITIONS.—Except as otherwise provided by this section or a treaty or convention to which the United States Government is a

party, a foreign vessel may not unload, in a port of the United States—

''(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

''(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

''(b) REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.

''(c) VIRGIN ISLANDS EXEMPTION.—A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this subsection may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This subsection does not prohibit the freezing, smoking, or other processing of fresh fish by the ultimate consumer of the fish.

''(d) SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the Virgin Islands that are retained, sold, or transferred, except as allowed by subsection (c), are liable to seizure by and forfeiture to the Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than $1,000 for each violation. A penalty or forfeiture under this section may be compromised, modified, or remitted under section 2107(b) of this title.

''§ 55115. Supplies on fish processing vessels

''Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard such a vessel.

''§ 55116. Canadian rail lines

''Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes have been recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

''§ 55117. Great Lakes rail route

''Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

''(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

''(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

''(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

''(4) the car ferry is built in and documented under the laws of the United States.

''§ 55118. Foreign railroads whose road enters by ferry, tugboat, or towboat

''A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

''§ 55119. Yukon River

''Section 55102 of this title does not apply to the transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

''§ 55120. Transshipment of imported merchandise intended for immediate exportation

''The Secretary of Homeland Security may prescribe regulations for the transshipment and transportation of merchandise that is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power.

''CHAPTER 553—PASSENGER AND CARGO PREFERENCES

''SUBCHAPTER I—GENERAL

''Sec.
''55301. Priority loading for coal.
''55302. Transportation of United States Government personnel.
''55303. Motor vehicles owned by United States Government personnel.
''55304. Exports financed by the United States Government.
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''SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

''55311. Findings and purposes.
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''SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

''55331. Definitions.
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''55333. Exemption from restriction on transporting certain cargo.
''55334. Restrictions on operations.
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''SUBCHAPTER I—GENERAL

''§ 55301. Priority loading for coal

''A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

''§ 55302. Transportation of United States Government personnel

''(a) IN GENERAL.—An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a vessel documented under the laws of the United Sates if such a vessel is available, unless the necessity of the mission requires the use of a foreign vessel.

''(b) REGULATIONS.—The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

''§ 55303. Motor vehicles owned by United States Government personnel

''Notwithstanding any other law, privately-owned American shipping services may be used to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

''§ 55304. Exports financed by the United States Government

''It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

''§ 55305. Cargoes procured, furnished, or financed by the United States Government

''(a) DEFINITION.—In this section, the term 'privately-owned United States-flag commercial vessel' does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

''(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned United States-flag commercial vessels, to the extent those vessels are available at fair and reasonable rates for United States-flag commercial vessels, in a manner that will ensure a fair and reasonable participation of United States-flag commercial vessels in those cargoes by geographic areas.

''(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

''(1) declaring the existence of an emergency justifying a waiver; and

''(2) notifying the appropriate agencies of the waiver.

''(d) PROGRAMS OF OTHER AGENCIES.—An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.

''SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

''§ 55311. Findings and purposes

''(a) FINDINGS.—Congress finds that—

''(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

''(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

''(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

''(b) PURPOSES.—The purposes of this subchapter are to—

''(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

''(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

''(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

''(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

''(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

''(6) provide for the appropriate disposition of these findings and purposes.

''§ 55312. Determining prevailing world market price

''(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

''(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

''§ 55313. Exemption of certain agricultural exports from cargo preference provisions

''Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

''(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

''(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in clause (1);

''(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

''(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

''(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this clause does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.

''§ 55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture

''(a) MINIMUM TONNAGE.—

''(1) IN GENERAL.—In addition to the requirement under section 55305 of this title for the transportation of a percentage of gross tonnage on United States-flag vessels, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) shall be transported each calendar year on United States-flag commercial vessels that—

''(A) are necessary for national security; and

''(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

''(2) CALENDAR YEAR.—To provide for effective and equitable administration of the cargo preference laws, the calendar year for the purpose of compliance with minimum percentage requirements is the 12-month period beginning October 1 of each year.

''(b) APPLICABLE EXPORT ACTIVITY.—This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation—

''(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

''(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

''(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1);

''(4) under which agricultural commodities or their products are—

''(A) donated through foreign governments or private or public agencies, including intergovernmental organizations; or

''(B) sold for foreign currencies or for dollars on credit terms of more than 10 years;

''(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

''(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser to enable the purchaser to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

''(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, except export activities described in section 55313(5) of this title.

''(c) ADDITIONAL REQUIREMENTS.—

''(1) APPLICATION OF SECTION 55305.—The requirement for United States-flag transportation under subsection (a) is subject to the same terms and conditions as provided in section 55305 of this title.

''(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in carrying out this section and section 55305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 55305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

''(3) CALCULATIONS.—In carrying out paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel, and then there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under this section and section 55305 of this title do not apply to commodities allocated to the Great Lakes port range under paragraph (2). To the extent that the Great Lakes port range is used to furnish and transport less than 25 percent of the total annual tonnage of commodities to which paragraph (2) applies, the commodities allocated to the Great Lakes port range under paragraph (2) may not be reallocated or diverted to another port range to meet the requirements for United States-flag transportation under this section and section 55305 of this title.

''(4) AWARDING CONTRACTS.—In awarding a contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), an agency—

''(A) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

''(B) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

''(5) NONAVAILABILITY OF VESSELS.—A determination of nonavailability of United States-flag vessels resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 55305 of this title to be transported on United States-flag vessels.

''§ 55315. Minimum tonnage

''(a) DEFINITION.—In this section, the term 'base period' means the 5-year period running from the sixth through the second prior fiscal years.

''(b) REQUIREMENT.—For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 55314 of this title is the average of the tonnage exported under those programs during the base period, discarding the high and low years.

''(c) WAIVERS.—The President may waive the minimum quantity for a fiscal year under this section if the President determines and reports

to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of funds.

"§ 55316. Financing the transportation of agricultural commodities

''(a) FINANCING OF INCREASED CHARGES.—The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year that result from the application of section 55314 of this title.

''(b) REIMBURSEMENT OF INCREASED CHARGES.—

''(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

''(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

''(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

''(2) COMMODITIES SHIPPED FROM INVENTORY.—For purposes of this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(d) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).

''(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

''(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

''(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

''(d) SOURCE OF FUNDS FOR REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

''(e) APPROPRIATIONS.—

''(1) AUTHORIZATION.—Each fiscal year, there is authorized to be appropriated an amount sufficient to reimburse the Secretary of Transportation for the costs incurred under this section, including administrative expenses and the principal and interest due on obligations issued to the Secretary of the Treasury.

''(2) APPROPRIATION FOR ADMINISTRATIVE EXPENSES.—Each fiscal year, such amounts as may be necessary are hereby appropriated to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

''(f) NOTIFICATION TO CONGRESS OF INSUFFICIENCY.—If the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 55314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

"§ 55317. Termination of subchapter

''This subchapter terminates 90 days after the date on which a notification is made under section 55316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 55314(a) and 55316(a) and (b) of this title. On the termination of this subchapter under this section—

''(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

''(2) the 50-percent requirement in section 55305 of this title remains in effect.

"§ 55318. Effect on other law

''This subchapter does not affect chapter 5 of title 5.

''SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

"§ 55331. Definitions

''In this subchapter:

''(1) AMERICAN GREAT LAKES VESSEL.—The term 'American Great Lakes vessel' means a vessel so designated under section 55332 of this title, but only during the period the designation is in effect.

''(2) GREAT LAKES.—The term 'Great Lakes' means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

''(3) GREAT LAKES SHIPPING SEASON.—The term 'Great Lakes shipping season' means the period each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation.

"§ 55332. Designating American Great Lakes vessels

''(a) DESIGNATIONS.—The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if—

''(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

''(2) the vessel is documented under the laws of the United States;

''(3) the vessel, on the effective date of the designation, is—

''(A) at least 1, but not more than 6, years old; or

''(B) at least 1, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

''(4) the vessel has not previously been designated as an American Great Lakes vessel; and

''(5) the owner makes an agreement as provided under subsection (b).

''(b) AGREEMENTS.—A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 55335 of this title, to purchase the vessel for a price equal to the greater of—

''(1) the approximate world market value of the vessel; or

''(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

''(c) CERTAIN FOREIGN DOCUMENTATION AND SALE NOT PROHIBITED.—Notwithstanding any other law, if the Government does not exercise its right of purchase under an agreement under subsection (b), the owner of the vessel is not prohibited from—

''(1) documenting the vessel under the laws of a foreign country; or

''(2) selling the vessel to a person not a citizen of the United States.

''(d) REGULATIONS.—The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

"§ 55333. Exemption from restriction on transporting certain cargo

''The 3-year documentation requirement of section 55305(a) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

"§ 55334. Restrictions on operations

''(a) PROHIBITIONS.—Except as provided in subsection (b), an American Great Lakes vessel may not be used to—

''(1) engage in trade—

''(A) from a port in the United States that is not located on the Great Lakes; or

''(B) between ports in the United States;

''(2) transport bulk cargo (as defined in section 40102 of this title) that is subject to section 55305 or 55314 of this title or section 2631 of title 10; or

''(3) provide a service (except ocean freight service) as—

''(A) a contract carrier; or

''(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign trade of the United States.

''(b) OFF-SEASON EXCEPTION.—An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in trade prohibited by subsection (a)(1)(A), except during the Great Lakes shipping season.

"§ 55335. Revocations and terminations of designations

''(a) REVOCATIONS.—After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that—

''(1) the vessel does not meet a requirement for the designation;

''(2) the vessel has been operated in violation of this subchapter; or

''(3) the owner or operator of the vessel has violated an agreement made under section 55332(b) of this title.

''(b) TERMINATIONS.—On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of United States-flag vessels.

"§ 55336. Civil penalty

''After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than $1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 55335 of this title.

"CHAPTER 555—MISCELLANEOUS

''Sec.

''55501. Mobile trade fairs.

"§ 55501. Mobile trade fairs

''(a) IN GENERAL.—The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where the operators of the fairs use, insofar as practicable, vessels and aircraft of the United States in transporting their exhibits.

''(b) TECHNICAL AND FINANCIAL ASSISTANCE.—When the Secretary determines that a mobile

trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair—

''(1) technical assistance and support; and

''(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft.

''(c) USE OF FOREIGN CURRENCIES.—To carry out this section, the President may use, in addition to amounts appropriated to carry out trade promotion activities, foreign currencies owned by or owed to the United States Government.

''PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

"CHAPTER 561—RESTRICTIONS ON TRANSFERS

''Sec.
''56101. Approval required to transfer vessel to noncitizen.
''56102. Additional controls during war or national emergency.
''56103. Conditional approvals.
''56104. Penalty for false statements.
''56105. Forfeiture procedure.

"§ 56101. Approval required to transfer vessel to noncitizen

''(a) RESTRICTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

''(A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

''(i) a documented vessel owned by a citizen of the United States; or

''(ii) a vessel last documented under the laws of the United States; or

''(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

''(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

''(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

''(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

''(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

''(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

''(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

''(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

''(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

''(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

"§ 56102. Additional controls during war or national emergency

''(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

''(1) place under foreign registry or flag a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

''(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

''(A) a vessel owned as described in clause (1), or an interest therein;

''(B) a vessel documented under the laws of the United States, or an interest therein; or

''(C) a facility for building or repairing vessels, or an interest therein;

''(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

''(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

''(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

''(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

''(b) TRUSTEES.—

''(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

''(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

''(B) is authorized under those laws to exercise corporate trust powers;

''(C) is a citizen of the United States;

''(D) is subject to supervision or examination by Federal or State authority; and

''(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

''(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

''(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

''(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

''(d) RECOVERY OF CONSIDERATION.—

''(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

''(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(2) FORFEITURE.—The following shall be forfeited to the Government:

''(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of this section.

''(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

''(C) A vessel departing in violation of subsection (a)(6).

"§ 56103. Conditional approvals

''(a) IN GENERAL.—In approving an act or transaction under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

''(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

"§ 56104. Penalty for false statements

''A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary's approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 56105. Forfeiture procedure

''(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

''(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

"CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

''Sec.
''56301. General authority.
''56302. Charter terms.
''56303. Compensation.
''56304. Disputed compensation.
''56305. Vessel encumbrances.
''56306. Use and transfer of vessels.
''56307. Return of vessels.

"§ 56301. General authority

''During a national emergency declared by Presidential proclamation, or a period for which

the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

"§ 56302. Charter terms

''(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter containing—

''(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

''(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

''(b) REFUSAL TO ACCEPT.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

"§ 56303. Compensation

''(a) IN GENERAL.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

''(b) FACTORS NOT AFFECTING VALUE.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

''(c) EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.—

''(1) IF PAID.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

''(2) IF NOT PAID.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

''(d) LOSS OR DAMAGE DURING CHARTER.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

"§ 56304. Disputed compensation

''If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States Government to recover just compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the person shall refund the difference.

"§ 56305. Vessel encumbrances

''(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

''(b) DEPOSIT IN TREASURY.—

''(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

''(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

''(c) CIVIL ACTION.—

''(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

''(2) VENUE.—The action must be brought in the district court of the United States—

''(A) from whose custody the vessel was or may be requisitioned; or

''(B) in whose district the vessel was located when it was requisitioned.

''(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

''(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

"§ 56306. Use and transfer of vessels

''(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

''(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

"§ 56307. Return of vessels

''When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

''(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

''(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

"CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

''Sec.
''56501. Definition.
''56502. Adjusting obligations and arranging maintenance.
''56503. Types of adjustments and arrangements.
''56504. Changes in adjustments and arrangements.

"§ 56501. Definition

''In this chapter, the term 'essential vessel' means a vessel that is—

''(1)(A) security for a mortgage indebtedness to the United States Government; or

''(B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and

''(2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

"§ 56502. Adjusting obligations and arranging maintenance

''(a) GENERAL AUTHORITY.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

''(1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—

''(A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

''(B) compatible with maintaining the availability of the vessel for national defense and commerce;

''(2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and

''(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under clause (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

''(b) EFFECTIVE PERIOD.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

"§ 56503. Types of adjustments and arrangements

''(a) SUSPENSION REQUIREMENTS.—An adjustment or arrangement under this chapter shall include suspension of—

''(1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

''(2) the right to operating-differential subsidy for the vessel.

''(b) DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent the Secretary of Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

''(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

''(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

''(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.

''(4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.

''(5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.

''(6) Payment to the Secretary, on termination of the arrangements with the applicant, of the applicant's net profits (earned while the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.

''(c) LAID-UP VESSELS.—Under subsection (b)(6), capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

"§ 56504. Changes in adjustments and arrangements

''The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

''PART F—GOVERNMENT-OWNED MERCHANT VESSELS

"CHAPTER 571—GENERAL AUTHORITY

''Sec.
''57101. Placement of vessels in National Defense Reserve Fleet.
''57102. Disposition of vessels not worth preserving.
''57103. Sale of obsolete vessels in National Defense Reserve Fleet.
''57104. Acquisition of vessels from sale of obsolete vessels.
''57105. Acquisition of vessels for essential services, routes, or lines.
''57106. Maintenance, improvement, and operation of vessels.
''57107. Vessels for other agencies.
''57108. Consideration of ballast and equipment in determining selling price.
''57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation.

"§ 57101. Placement of vessels in National Defense Reserve Fleet

''(a) IN GENERAL.—Any vessel acquired by the Maritime Administration shall be placed in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

''(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

"§ 57102. Disposition of vessels not worth preserving

''(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary may scrap the vessel or sell the vessel for cash.

''(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

"§ 57103. Sale of obsolete vessels in National Defense Reserve Fleet

''(a) IN GENERAL.—The Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if the recipient—

''(1) is a non-profit organization, a State, or a municipal corporation or political subdivision of a State;

''(2) agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

''(3) agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

''(4) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

''(5) has a conveyance plan and a business plan that describes the intended use of the vessel, each of which has been submitted to and approved by the Secretary;

''(6) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

''(7) agrees that when the recipient no longer requires the vessel for use as described in the business plan required under clause (5)—

''(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

''(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

''(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Government or a State or local government for a public purpose; and

''(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

''(b) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

''(c) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

''(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

''(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of the vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

''(f) REVERSION.—The Secretary shall include in any conveyance under this section terms under which all right, title, and interest conveyed by the Secretary shall revert to the Government if the Secretary determines the vessel has been used other than as described in the business plan required under subsection (a)(5).

"§ 57104. Acquisition of vessels from sale of obsolete vessels

''(a) IN GENERAL.—The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

''(b) VALUATION.—The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the Fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the Fleet to the place of scrapping.

''(c) COSTS INCIDENT TO LAY-UP.—Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

''(d) TRANSFERS TO NON-CITIZENS.—A vessel sold from the Fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

"§ 57105. Acquisition of vessels for essential services, routes, or lines

''(a) IN GENERAL.—The Secretary of Transportation may acquire a vessel, by purchase or otherwise, if—

''(1) the Secretary considers the vessel necessary to establish, maintain, improve, or serve as a replacement on an essential service, route, or line in the foreign commerce of the United States, as determined under section 50103 of this title;

''(2) the vessel was constructed in the United States; and

''(3) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for use by the United States Government in time of war or national emergency.

''(b) PRICE.—The price paid for the vessel shall be based on a fair and reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended for reconditioning, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

''(c) DOCUMENTATION.—A vessel acquired under this section that is not documented under the laws of the United States at the time of acquisition shall be so documented as soon as practicable.

"§ 57106. Maintenance, improvement, and operation of vessels

''(a) IN GENERAL.—The Secretary of Transportation may maintain, repair, recondition, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for competition in the foreign trade of the United States. The Secretary may operate such a vessel or charter the vessel on terms and conditions the Secretary considers appropriate to carry out the purposes of this subtitle.

''(b) DOCUMENTATION AND RESTRICTIONS ON OPERATION.—A vessel reconditioned, remodeled, or improved under subsection (a) shall be documented under the laws of the United States and remain so documented for at least 5 years after completion of the reconditioning, remodeling, or improvement. During that period, it shall be operated on voyages that are not exclusively coastwise.

"§ 57107. Vessels for other agencies

''(a) IN GENERAL.—The Secretary of Transportation may construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the United States Government to the extent the other department or agency is authorized by law to do so for its own account.

''(b) EFFECT ON CONTRACT AUTHORIZATION.—An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the department or agency.

"§ 57108. Consideration of ballast and equipment in determining selling price

''The Maritime Administration may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

"§ 57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation

''Unless otherwise authorized by the Secretary of Transportation, a vessel purchased, chartered, or leased from the Secretary may be operated only under a certificate of documentation with a registry or coastwise endorsement. Such a vessel, while employed solely as a merchant vessel, is subject to the laws, regulations, and liabilities governing merchant vessels, whether the United States Government has an interest in

the vessel as an owner or holds a mortgage, lien, or other interest.

"CHAPTER 573—VESSEL TRADE-IN PROGRAM

''Sec.
''57301. Definitions.
''57302. Authority to acquire vessels.
''57303. Utility value and tonnage requirements.
''57304. Eligible acquisition dates.
''57305. Determination of trade-in allowance.
''57306. Payment of trade-in allowance.
''57307. Recognition of gain for tax purposes.
''57308. Use of vessels at least 25 years old.

"§ 57301. Definitions

''In this chapter:

''(1) NEW VESSEL.—The term 'new vessel' means a vessel—

''(A) constructed under this subtitle and acquired within 2 years after the date of completion; or

''(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under the laws of the United States.

''(2) OBSOLETE VESSEL.—The term 'obsolete vessel' means a vessel that—

''(A) is of at least 1,350 gross tons;

''(B) the Secretary of Transportation believes should, because of its age, obsolescence, or other reasons, be replaced in the public interest; and

''(C) has been owned by a citizen of the United States for at least 3 years immediately before its acquisition under this chapter.

"§ 57302. Authority to acquire vessels

''To promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of construction or purchase of a new vessel as provided in this chapter.

"§ 57303. Utility value and tonnage requirements

''(a) UTILITY VALUE.—The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

''(b) TONNAGE.—If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

"§ 57304. Eligible acquisition dates

''At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur—

''(1) when the owner contracts for the construction or purchase of a new vessel; or

''(2) within 5 days of the actual date of delivery of the new vessel to the owner.

"§ 57305. Determination of trade-in allowance

''(a) IN GENERAL.—The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel at the time of acquisition of the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider—

''(1) the scrap value of the obsolete vessel in American and foreign markets;

''(2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and

''(3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

''(b) USE OF OBSOLETE VESSELS.—If acquisition of the obsolete vessel occurs when the owner contracts for the construction of the new vessel, and the owner uses the obsolete vessel during the period of construction of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract for construction of the new vessel is made.

"§ 57306. Payment of trade-in allowance

''(a) ACQUISITION AT TIME OF CONTRACT.—If acquisition of an obsolete vessel under this chapter occurs when the owner contracts for the construction or purchase of the new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on terms and conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the builder of the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

''(b) ACQUISITION AT TIME OF DELIVERY.—If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

"§ 57307. Recognition of gain for tax purposes

''The owner of an obsolete vessel does not recognize a gain under the Federal income tax laws when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel—

''(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

''(2) decreased by the amount of loss recognized on the transfer.

"§ 57308. Use of vessels at least 25 years old

''An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not be used for commercial operation. However, the vessel may be used—

''(1) during a period in which vessels may be requisitioned under chapter 563 of this title; or

''(2) except as otherwise provided in this subtitle, on trade routes serving only the foreign trade of the United States.

"CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

''SUBCHAPTER I—GENERAL

''Sec.
''57501. Completion of long-range program.
''57502. Construction, reconditioning, and remodeling of vessels.
''57503. Competitive bidding.
''57504. Charter or sale of vessels acquired by Department of Transportation.
''57505. Employment of vessels on foreign trade routes.
''57506. Minimum selling price of vessels.

''SUBCHAPTER II—CHARTERS

''57511. Demise charters.
''57512. Competitive bidding.
''57513. Minimum bid.
''57514. Qualifications of bidders.
''57515. Awarding of charters.
''57516. Operating-differential subsidies.
''57517. Recovery of excess profits.
''57518. Performance bond.
''57519. Insurance.
''57520. Vessel maintenance.
''57521. Termination of charter during national emergency.

''SUBCHAPTER III—MISCELLANEOUS

''57531. Construction and charter of vessels for unsuccessful routes.
''57532. Operation of experimental vessels.

''SUBCHAPTER I—GENERAL

"§ 57501. Completion of long-range program

''Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under titles V and VI of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

"§ 57502. Construction, reconditioning, and remodeling of vessels

''(a) IN GENERAL.—The Secretary of Transportation may have new vessels constructed, and have old vessels reconditioned or remodeled, as the Secretary determines necessary to carry out the objectives of this subtitle.

''(b) PLACE OF WORK.—Construction, reconditioning, and remodeling of vessels under subsection (a) shall take place in shipyards in the continental United States (including Alaska and Hawaii). However, if satisfactory contracts cannot be obtained from private shipbuilders, the Secretary may have the work done in navy yards.

''(c) APPLICABILITY OF CONSTRUCTION-DIFFERENTIAL SUBSIDY PROVISIONS.—Contracts for the construction, reconstruction, or reconditioning of a vessel by a private shipbuilder under this chapter are subject to the provisions of title V of the Merchant Marine Act, 1936, applicable to a contract with a private shipbuilder for the construction of a vessel under title V of that Act.

"§ 57503. Competitive bidding

''(a) ADVERTISEMENT AND BIDDING.—The Secretary of Transportation may make a contract with a private shipbuilder for the construction of a new vessel, or for the reconstruction or reconditioning of an existing vessel, only after due advertisement and upon sealed competitive bids.

''(b) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

"§ 57504. Charter or sale of vessels acquired by Department of Transportation

''Vessels transferred to or otherwise acquired by the Department of Transportation in any manner may be chartered or sold by the Secretary of Transportation as provided in this chapter.

"§ 57505. Employment of vessels on foreign trade routes

''(a) IN GENERAL.—The Secretary of Transportation shall arrange for the employment of the Department of Transportation's vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary determines are essential for the development and maintenance of the commerce of the United States and the national defense. However, the Secretary shall first determine that those routes are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States.

''(b) POLICY TO ENCOURAGE PRIVATE OPERATION.—The Secretary shall have a policy of encouraging private operation of each essential steamship line now owned by the United States Government by—

''(1) selling the line to a citizen of the United States; or

''(2) demising the Secretary's vessels on bareboat charter to citizens of the United States who agree to maintain the line in the manner provided in this chapter.

"§ 57506. Minimum selling price of vessels

''(a) IN GENERAL.—A vessel constructed under this subtitle or the Merchant Marine Act, 1936, may not be sold by the Secretary of Transportation for less than the price specified in this section.

''(b) OPERATION IN FOREIGN TRADE.—If the vessel is to be operated in foreign trade, the minimum price is the estimated foreign construction cost (exclusive of national defense features) determined as of the date the construction contract is executed, less depreciation under subsection (d).

''(c) OPERATION IN DOMESTIC TRADE.—If the vessel is to be operated in domestic trade, the minimum price is the cost of construction in the United States (exclusive of national defense features), less depreciation under subsection (d).

''(d) DEPRECIATION.—Depreciation under subsections (b) and (c) shall be based on—

''(1) a 25-year life for dry-cargo and passenger vessels; and

''(2) a 20-year life for tankers and other bulk liquid carrier vessels.

''SUBCHAPTER II—CHARTERS

''§ 57511. Demise charters

''A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

''§ 57512. Competitive bidding

''(a) IN GENERAL.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

''(b) ADVERTISEMENT FOR BIDS.—An advertisement for bids shall state—

''(1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;

''(2) the minimum number of sailings required;

''(3) the length of time of the charter;

''(4) the right of the Secretary to reject all bids; and

''(5) other information the Secretary considers necessary for the information of prospective bidders.

''(c) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

''§ 57513. Minimum bid

''The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

''§ 57514. Qualifications of bidders

''(a) CONSIDERATIONS.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

''(1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and

''(2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

''(b) DISQUALIFICATIONS.—The Secretary may not charter a vessel to a person appearing to lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

''§ 57515. Awarding of charters

''(a) IN GENERAL.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

''(b) HIGHEST BID REJECTED.—If the Secretary rejects the highest bid, the Secretary may—

''(1) award the charter to the next highest bidder; or

''(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

''(c) REASON FOR REJECTION.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

''§ 57516. Operating-differential subsidies

''If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

''§ 57517. Recovery of excess profits

''(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

''(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms 'net voyage profit', 'fair and reasonable overhead expenses', and 'capital necessarily employed' for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

''§ 57518. Performance bond

''The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

''§ 57519. Insurance

''A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

''§ 57520. Vessel maintenance

''(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

''(1) keep the chartered vessel in good repair and efficient operating condition; and

''(2) make any repairs required by the Secretary of Transportation.

''(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

''§ 57521. Termination of charter during national emergency

''A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

''SUBCHAPTER III—MISCELLANEOUS

''§ 57531. Construction and charter of vessels for unsuccessful routes

''(a) IN GENERAL.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under the laws of the United States, without further aid by the United States Government in addition to the financial aid authorized under titles V and VI of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

''(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

''(2) demise those new vessels or bareboat charter them to the American-flag operator established on the trade route.

''(b) AMOUNT OF CHARTER HIRE.—

''(1) IN GENERAL.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the 'foreign cost') at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

''(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

''(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

''(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

''(A) a 25-year life for dry-cargo and passenger vessels; and

''(B) a 20-year life for tankers and other bulk liquid carrier vessels.

''(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

''(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

''(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

''(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

''(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

''(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

''(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

''(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

''(d) OPERATION OF VESSEL.—

''(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

''(A) in foreign trade;

''(B) on a round-the-world voyage;

''(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

''(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

''(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

''(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of 1/25 of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

''§ 57532. Operation of experimental vessels

''(a) DEFINITION.—In this section, the term 'experimental vessel' means a vessel owned by the United States Government (including a vessel in the National Defense Reserve Fleet) that has been constructed, reconditioned, or remodeled for experimental or testing purposes.

''(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the purpose of practical development, trial, and testing, may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic trade of the United States or for use for the account of a department or agency of the Government, without regard to other provisions of this subtitle and other laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

''(c) TERMS OF OPERATION.—Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out the purposes of this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of profits under section 57517 of this title. A charter or general agency agreement under this section shall be reviewed annually to determine whether conditions exist to justify continuance of the charter or agreement.

''(d) RIGHTS OF SEAMEN.—A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

''PART G—RESTRICTIONS AND PENALTIES

''CHAPTER 581—RESTRICTIONS AND PENALTIES

''Sec.
''58101. Operating in domestic intercoastal or coastwise service.
''58102. Default on payment or maintenance of reserves.
''58103. Employing another person as managing or operating agent.
''58104. Willful violation constitutes breach of contract or charter.
''58105. Preferences for cargo in which charterer has interest.
''58106. Concerted discriminatory activities.
''58107. Discrimination at ports by water common carriers.
''58108. Charges for transportation subject to subtitle IV of title 49.
''58109. Penalties.

''§ 58101. Operating in domestic intercoastal or coastwise service

''(a) PROHIBITION.—A subsidy may not be awarded or paid to a contractor under the operating-differential subsidy program, and a vessel may not be chartered to a person under chapter 575 of this title, if the contractor or charterer, or a holding company, subsidiary, affiliate, or associate of the contractor or charterer, or an officer, director, agent, or executive thereof, directly or indirectly—

''(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

''(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

''(b) WAIVER.—A person may apply to the Secretary of Transportation for a waiver of subsection (a). Before deciding on the waiver, the Secretary shall give the applicant and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would—

''(1) result in unfair competition to a person operating exclusively in the domestic intercoastal or coastwise service; or

''(2) be prejudicial to the objectives and policy of this subtitle.

''(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an application under subsection (b) without requiring further proof that the public interest and convenience will be served and without further proceedings as to the competition in the route or trade, if the contractor or other person, or a predecessor in interest, was in bona-fide operation as a common carrier by water in the domestic intercoastal or coastwise trade in 1935 over the route or in the trade for which the application is made and has so operated since that time or, if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event as to interruptions of service over which the applicant or its predecessor in interest had no control.

''(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an application under subsection (b) is approved, a person referred to in this section may not divert, directly or indirectly, money, property, or any other thing of value, used in a foreign-trade operation for which a subsidy is paid by the United States Government, into intercoastal or coastwise operations.

''§ 58102. Default on payment or maintenance of reserves

''The Secretary of Transportation may supervise the number and compensation of all officers and employees of a contractor under the operating-differential subsidy program or a charterer under chapter 575 of this title, receiving an operating-differential subsidy, if the contractor or charterer—

''(1) is in default on a mortgage, note, purchase contract, or other obligation to the Secretary; or

''(2) has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this subtitle.

''§ 58103. Employing another person as managing or operating agent

''(a) PROHIBITION.—Except with the written consent of the Secretary of Transportation, a contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title may not—

''(1) employ another person as the managing or operating agent of the operator; or

''(2) charter a vessel, on which an operating-differential subsidy is to be paid, for operation by another person.

''(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohibited by this section is made, the person operating the chartered vessel is subject to all the provisions of this subtitle and the operating-differential subsidy program, including limitations of profits and salaries.

''§ 58104. Willful violation constitutes breach of contract or charter

''A willful violation of any provision of sections 58101–58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

''§ 58105. Preferences for cargo in which charterer has interest

''A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

''§ 58106. Concerted discriminatory activities

''(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

''(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

''(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

''(1) 3 times the damages; and

''(2) costs, including reasonable attorney fees.

''§ 58107. Discrimination at ports by water common carriers

''(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

''(b) PORTS.—A port referred to in subsection (a) is one that is—

''(1) designed for the accommodation of ocean-going vessels;

''(2) located on an improvement project authorized by law or by a Federal agency; and

''(3) located within the continental limits of the United States.

''(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

''§ 58108. Charges for transportation subject to subtitle IV of title 49

''(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate,

fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

''(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

''(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

''§ 58109. Penalties

''(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

''(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

''(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.''.

SEC. 8. SUBTITLE VI OF TITLE 46.

(a) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

(b) NEW SUBTITLE.—Title 46, United States Code, is amended by inserting after subtitle V the following:

"Subtitle VI—Clearance, Tonnage Taxes, and Duties

''Chapter	*Sec.*
"601. Arrival and Departure Requirements	***60101***
"603. Tonnage Taxes and Light Money	***60301***
"605. Discriminating Duties and Reciprocal Privileges	***60501***

"CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS

''Sec.
''60101. Boarding arriving vessels before inspection.
''60102. Production of certificate on entry.
''60103. Oath of ownership on entry.
''60104. Depositing certificates of documentation with consular officers.
''60105. Clearance of vessels.
''60106. State inspection laws.
''60107. Payment of fees on departing vessel.
''60108. Duty to transport tendered cargo.
''60109. Duty to transport money and securities of the United States Government.

''§ 60101. Boarding arriving vessels before inspection

''(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

''(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

''(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

''§ 60102. Production of certificate on entry

''On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

''§ 60103. Oath of ownership on entry

''(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

''(1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

''(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

''(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

''(1) an owner if one resides at the port of entry; or

''(2) the master if an owner does not reside at the port of entry.

''(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

''§ 60104. Depositing certificates of documentation with consular officers

''(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel's certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

''(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

''(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of $500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the Government.

''§ 60105. Clearance of vessels

''(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—

''(1) for a foreign port or place;

''(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

''(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

''(b) OTHER VESSELS.—Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Secretary before proceeding from a port or place in the United States—

''(1) for a foreign port or place;

''(2) for another port or place in the United States; or

''(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

''(c) REGULATIONS.—The Secretary may by regulation—

''(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

''(2) permit clearance to be obtained before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

''(3) permit clearance to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

''§ 60106. State inspection laws

''When State law requires a certificate of inspection for goods carried on a vessel, a vessel transporting the goods may not be cleared until the certificate is produced.

''§ 60107. Payment of fees on departing vessel

''A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

''§ 60108. Duty to transport tendered cargo

''Clearance may be refused to a vessel or vehicle transporting cargo destined for a domestic or foreign port when the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

''§ 60109. Duty to transport money and securities of the United States Government

''Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in a foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

"CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY

''Sec.
''60301. Regular tonnage taxes.
''60302. Special tonnage taxes.
''60303. Light money.
''60304. Presidential suspension of tonnage taxes and light money.
''60305. Vessels in distress.
''60306. Vessels not engaged in trade.
''60307. Vessels engaged in coastwise trade or the fisheries.
''60308. Vessels engaged in Great Lakes trade.
''60309. Passenger vessels making trips between ports of the United States and foreign ports.

''60310. Vessels making daily trips on interior waters.
''60311. Hospital vessels in time of war.
''60312. Rights under treaties preserved.

"§ 60301. Regular tonnage taxes

''(a) LOWER RATE.—A tax is imposed at the rate of 2 cents per ton (but not more than a total of 10 cents per ton per year) at each entry in a port of the United States of—

''(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

''(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

''(A) a vessel of the United States;

''(B) a recreational vessel (as defined in section 2101 of this title); or

''(C) a barge.

''(b) HIGHER RATE.—A tax is imposed at the rate of 6 cents per ton (but not more than a total of 30 cents per ton per year) on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).

''(c) EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on vessels of the United States.

"§ 60302. Special tonnage taxes

''(a) ENTRY FROM FOREIGN PORT OR PLACE.—Regardless of whether a tax is imposed under section 60301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

''(1) 30 cents per ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

''(2) 50 cents per ton on other vessels not of the United States.

''(3) 50 cents per ton on a vessel of the United States having an officer who is not a citizen of the United States.

''(4) $2 per ton on a foreign vessel entering from a foreign port or place at which vessels of the United States are not ordinarily allowed to enter and trade.

''(b) VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BETWEEN DISTRICTS.—Regardless of whether a tax is imposed under section 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—The tax of 50 cents per ton under this section does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"§ 60303. Light money

''(a) IMPOSITION OF TAX.—A tax of 50 cents per ton, to be called 'light money', is imposed on a vessel not of the United States at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

''(b) EXCEPTION FOR VESSELS OWNED BY CITIZENS.—

''(1) IN GENERAL.—Subsection (a) does not apply to a vessel owned only by citizens of the United States if—

''(A) the vessel is carrying a regular document issued by a customhouse of the United States proving the vessel to be owned only by citizens of the United States; and

''(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) states under oath that—

''(i) the document contains the names of all the owners of the vessel; or

''(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

''(2) PERSON TO MAKE STATEMENT.—The statement under paragraph (1)(B) shall be made by—

''(A) an owner if one resides at the port of entry; or

''(B) the master if an owner does not reside at the port of entry.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) section does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"§ 60304. Presidential suspension of tonnage taxes and light money

''If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage taxes and light money under sections 60302 and 60303 of this title on vessels of that country.

"§ 60305. Vessels in distress

''A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

"§ 60306. Vessels not engaged in trade

''A vessel is exempt from tonnage taxes and light money when not engaged in trade.

"§ 60307. Vessels engaged in coastwise trade or the fisheries

''A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage taxes and light money.

"§ 60308. Vessels engaged in Great Lakes trade

''A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of that trade.

"§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

''A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

"§ 60310. Vessels making daily trips on interior waters

''A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

"§ 60311. Hospital vessels in time of war

''In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

"§ 60312. Rights under treaties preserved

''This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on vessels under a law or treaty of the United States.

"CHAPTER 605—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

''Sec.
''60501. Vessels allowed to import.
''60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries.
''60503. Reciprocal suspension of discriminating duties.
''60504. Reciprocal privileges for recreational vessels.
''60505. Retaliatory suspension of commercial privileges.
''60506. Retaliation against British dominions of North America.
''60507. Suspension of free passage through Saint Marys Falls Canal.

"§ 60501. Vessels allowed to import

''(a) IN GENERAL.—Except as otherwise provided by treaty, goods may be imported into the United States from a foreign port or place only in—

''(1) a vessel of the United States; or

''(2) a foreign vessel owned only by citizens or subjects of the country—

''(A) in which the goods are grown, produced, or manufactured; or

''(B) from which the goods can only be, or most usually are, first shipped for transportation.

''(b) EXCEPTION FOR VESSELS OF COUNTRIES NOT MAINTAINING SIMILAR RESTRICTIONS.—Subsection (a) does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

''(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) does not apply to a vessel that—

''(1) is owned only by citizens of the United States; and

''(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

''(d) SEIZURE AND FORFEITURE.—If goods are imported in violation of this section, the goods and the vessel in which they are imported, along with its equipment and other cargo, may be seized by and forfeited to the United States Government.

"§ 60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries

''(a) IMPOSITION OF DUTY.—A discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods—

''(1) imported in a vessel not of the United States unless the vessel—

''(A) is entitled by law or treaty to enter the ports of the United States on payment of the same duties as are payable on goods imported in a vessel of the United States; or

''(B)(i) is owned only by citizens of the United States; and

''(ii) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port; or

''(2) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

''(b) SEIZURE AND FORFEITURE.—If goods are imported without payment of the duty required by this section, the goods and the vessel in which they are imported may be seized by, and forfeited to, the United States Government.

"§ 60503. Reciprocal suspension of discriminating duties

''(a) GENERAL AUTHORITY.—On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class

of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

''(b) EFFECTIVE AND EXPIRATION DATES.—A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

''§ 60504. Reciprocal privileges for recreational vessels

''When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of Homeland Security may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

''§ 60505. Retaliatory suspension of commercial privileges

''(a) GENERAL AUTHORITY.—The President may proclaim a suspension of commercial privileges to vessels of a foreign country when—

''(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise commerce); and

''(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

''(b) APPLICATION.—A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

''(c) EFFECTIVE DATE.—The President shall designate the effective date of the suspension in the proclamation.

''(d) PENALTIES.—

''(1) SEIZURE AND FORFEITURE.—If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

''(2) FINE OR IMPRISONMENT.—A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

''§ 60506. Retaliation against British dominions of North America

''(a) GENERAL AUTHORITY.—The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that—

''(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been—

''(A) denied rights provided by law or treaty;

''(B) subjected to unreasonable restrictions in the exercise of those rights; or

''(C) otherwise harassed;

''(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock or trade at a port or place in the British dominions of North America, are being or recently have been—

''(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

''(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

''(C) otherwise harassed; or

''(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been—

''(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

''(B) otherwise harassed.

''(b) COVERAGE AND EXCEPTIONS.—The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

''(c) PENALTIES.—A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

''§ 60507. Suspension of free passage through Saint Marys Falls Canal

''(a) PURPOSE.—The purpose of this section is to secure reciprocal advantages for the citizens, ports, and vessels of the United States.

''(b) GENERAL AUTHORITY.—When the President is satisfied that vessels of the United States, or passengers or cargo being transported to a port of the United States, are prohibited from passing through a canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or their connecting waterways, or burdened in that passage by tolls or other means that are unreasonable in view of the free passage through the Saint Marys Falls Canal allowed to vessels of all countries, the President by proclamation may suspend the right of free passage through the Saint Marys Falls Canal for vessels owned by subjects of the country imposing the prohibition, tolls, or other burdens and for passengers and cargo being transported to the ports of that country, even when carried in vessels of the United States. The suspension shall apply to the extent and for the time the President considers appropriate.

''(c) IMPOSITION OF TOLL.—

''(1) IN GENERAL.—During a suspension under this section, the President shall impose a toll of not more than $2 per ton on cargo and not more than $5 on each passenger.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), a toll may not be imposed on passengers or cargo landed at Ogdensburg, New York, or any port west of Ogdensburg and south of a line drawn from the northern boundary of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of Minnesota.

''(d) COLLECTION OF TOLL.—

''(1) IN GENERAL.—A toll imposed under this section shall be collected under regulations prescribed by the Secretary of Homeland Security. The Secretary may require the master of a vessel to provide a sworn statement of the amount and kind of cargo, the number of passengers, and the destination of the passengers and cargo.

''(2) PROOF OF LANDING.—When applicable, the Secretary also may require satisfactory proof that the passengers and cargo were landed at a port described in subsection (c)(2). Until that proof is provided, the Secretary may assume the passengers and cargo were not landed at such a port, and the amount of a toll that otherwise would be imposed is a lien enforceable against the vessel when found in the waters of the United States.''.

SEC. 9. SUBTITLE VII OF TITLE 46.

Subtitle VII of title 46, United States Code, as redesignated by section 8(a) of this Act, is amended as follows:

(1) The subtitle heading and analysis are amended to read as follows:

"Subtitle VII—Security and Drug Enforcement

''Chapter	*Sec.*
"701. Port Security	***70101***
"703. Maritime Security	***70301***
"705. Maritime Drug Law Enforcement	***70501".***

(2) Add after chapter 701 the following:

"CHAPTER 703—MARITIME SECURITY

''Sec.
''70301. Definitions.
''70302. International measures for seaport and vessel security.
''70303. Security standards at foreign ports.
''70304. Travel advisories on security at foreign ports.
''70305. Suspension of passenger services.
''70306. Report on terrorist threats.

''§ 70301. Definitions

''In this chapter:

''(1) COMMON CARRIER.—The term 'common carrier' has the meaning given that term in section 40102 of this title.

''(2) PASSENGER VESSEL.—The term 'passenger vessel' has the meaning given that term in section 2101 of this title.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

''§ 70302. International measures for seaport and vessel security

''Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

''(1) seaport screening of cargo and baggage similar to that done at airports;

''(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

''(3) additional security on board vessels;

''(4) licensing or certification of compliance with appropriate security standards; and

''(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

''§ 70303. Security standards at foreign ports

''(a) GENERAL REQUIREMENTS.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

''(b) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

''(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

''(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

''(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide antiterrorism assistance related to maritime security under

chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

"§ 70304. Travel advisories on security at foreign ports

''(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

''(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

''(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

"§ 70305. Suspension of passenger services

''(a) GENERAL AUTHORITY.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

''(b) PROHIBITION.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

''(c) PENALTIES.—

''(1) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

''(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

"§ 70306. Report on terrorist threats

''(a) CONTENT.—Not later than February 28 of each year, the Secretary shall submit a report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

''(b) SUBMISSION.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

"CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

''Sec.
''70501. Findings and declarations.
''70502. Definitions.
''70503. Manufacture, distribution, or possession of controlled substances on vessels.
''70504. Jurisdiction and venue.
''70505. Failure to comply with international law as a defense.
''70506. Penalties.
''70507. Forfeitures.

"§ 70501. Findings and declarations

''Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

"§ 70502. Definitions

''(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

''(b) VESSEL OF THE UNITED STATES.—In this chapter, the term 'vessel of the United States' means—

''(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

''(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

''(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

''(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

''(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

''(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

''(1) IN GENERAL.—In this chapter, the term 'vessel subject to the jurisdiction of the United States' includes—

''(A) a vessel without nationality;

''(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

''(C) a vessel registered in a foreign nation if the flag nation has consented or waived objection to the enforcement of United States law by the United States;

''(D) a vessel in the customs waters of the United States;

''(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

''(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

''(i) is entering the United States;

''(ii) has departed the United States; or

''(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

''(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

''(A) may be obtained by radio, telephone, or similar oral or electronic means; and

''(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

''(d) VESSEL WITHOUT NATIONALITY.—

''(1) IN GENERAL.—In this chapter, the term 'vessel without nationality' includes—

''(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the flag nation whose registry is claimed;

''(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

''(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

''(2) CLAIM OF REGISTRY.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim by the claimed flag nation is proved conclusively by certification of the Secretary of State or the Secretary's designee.

''(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

''(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

''(2) flying its flag nation's ensign or flag; or

''(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

"§ 70503. Manufacture, distribution, or possession of controlled substances on vessels

''(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

''(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

''(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

''(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

''(c) NONAPPLICATION.—

''(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

''(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

''(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

''(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

''(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

"§ 70504. Jurisdiction and venue

''(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

''(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

''(1) the district at which the person enters the United States; or

''(2) the District of Columbia.

"§ 70505. Failure to comply with international law as a defense

''A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

"§ 70506. Penalties

''(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

''(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

"§ 70507. Forfeitures

''(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

''(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

''(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

''(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

''(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables;

''(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

''(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

''(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

''(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

''(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

''(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

''(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

''(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

''(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

''(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

''(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

''(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

''(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.''.

SEC. 10. SUBTITLE VIII OF TITLE 46.

Title 46, United States Code, is amended by adding after subtitle VII the following:

"Subtitle VIII—Miscellaneous

''Chapter	*Sec.*
"801. Wrecks and Salvage	***80101***
"803. Ice and Derelicts	***80301***
"805. Safe Containers for International Cargo	***80501***

"CHAPTER 801—WRECKS AND SALVAGE

''Sec.
''80101. Vessel stranded on foreign coast.
''80102. License to salvage on Florida coast.
''80103. Property on Florida coast to be taken to port of entry.
''80104. Salvaging operations by foreign vessels.
''80105. Canadian vessels aiding vessels in United States waters.
''80106. International agreement on derelicts.
''80107. Salvors of life to share in remuneration.

"§ 80101. Vessel stranded on foreign coast

''(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

''(1) save and secure the vessel and property on the vessel; and

''(2) prepare an inventory of the property that is saved.

''(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

''(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

"§ 80102. License to salvage on Florida coast

''(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

''(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

''(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

''(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.

"§ 80103. Property on Florida coast to be taken to port of entry

''(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

''(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

"§ 80104. Salvaging operations by foreign vessels

''(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

''(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

''(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

''(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

''(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

''(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

''(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

"§ 80105. Canadian vessels aiding vessels in United States waters

''(a) IN GENERAL.—Canadian vessels and wrecking equipment may give aid to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to Canada, including—

''(1) the canal and improvement of the waters between Lake Erie and Lake Huron; and

''(2) the Saint Marys River and canal.

''(b) RECIPROCITY.—This section does not apply after the President proclaims that privileges reciprocal to those under subsection (a) have been withdrawn or rendered inoperative by the Government of Canada.

"§ 80106. International agreement on derelicts

''The President may make an international agreement with other governments interested in the navigation of the North Atlantic Ocean, providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation outside the coast waters of the countries bordering the North Atlantic Ocean.

"§ 80107. Salvors of life to share in remuneration

''(a) ENTITLEMENT OF SALVORS.—A salvor of human life, who gave aid following an accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

''(b) COMMON OWNERSHIP OF VESSELS.—The right to remuneration for aid or salvage services is not affected by common ownership of the vessels giving and receiving the aid or salvage services.

''(c) TIME LIMIT ON BRINGING ACTIONS.—A civil action to recover remuneration for giving aid or salvage services must be brought within 2 years after the date the aid or salvage services were given, unless the court in which the action is brought is satisfied that during that 2-year period there had not been a reasonable opportunity to seize the aided or salvaged vessel within the jurisdiction of the court or within the territorial waters of the country of the plaintiff's residence or principal place of business.

''(d) NONAPPLICATION.—This section does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.

"CHAPTER 803—ICE AND DERELICTS

''Sec.
''80301. International agreements.
''80302. Patrol services.
''80303. Speed of vessel in ice region.

"§ 80301. International agreements

''(a) GENERAL AUTHORITY.—The President may make agreements with interested maritime countries to—

''(1) maintain in the North Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring assistance within the limits of the patrol;

''(2) maintain a service of study and observation of ice and current conditions in the waters affecting the set and drift of ice in the North Atlantic Ocean; and

''(3) take all practicable steps to ensure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude 34 degrees north, longitude 70 degrees west, if the destruction or removal is necessary.

''(b) PAYMENT BETWEEN COUNTRIES.—The President may include in an agreement under subsection (a) a provision for—

''(1) payment to the United States Government by other countries for their proportionate share of the expense of maintaining the services; or

''(2) contribution by the Government for its proportionate share if the agreement provides for another country to maintain the services.

"§ 80302. Patrol services

''(a) GENERAL REQUIREMENTS.—Unless the agreements made under section 80301 of this title provide otherwise, an ice patrol shall be maintained during the entire ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland. The patrol shall inform trans-Atlantic and other passing vessels by radio and other available means of the ice conditions and the extent of the dangerous region. During the ice season, there shall be maintained a service of study of ice and current conditions, a service of providing assistance to vessels and crews requiring assistance, and a service of removing and destroying derelicts. Any of these services may be maintained during the remainder of the year as may be advisable.

''(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel known to be approaching a dangerous area and recommend safe routes.

''(c) RECORDING AND REPORTING INCIDENTS.—

''(1) RECORDING.—An ice patrol vessel shall record the name of a vessel and the facts of the case when the patrol observes or knows that the vessel—

''(A) is on other than a regular recognized or advertised route crossing the North Atlantic Ocean;

''(B) has crossed the fishing banks of Newfoundland north of latitude 43 degrees north during the fishing season; or

''(C) has passed through regions known or believed to be endangered by ice when proceeding to and from ports of North America.

''(2) REPORTING.—The name of the vessel and all pertinent information about the incident shall be reported to the government of the country to which the vessel belongs if that government requests.

''(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the direction of the Secretary of the department in which the Coast Guard is operating, shall carry out the services provided for in this section and shall assign necessary vessels, material, and personnel of the Coast Guard. On request of such Secretary, the head of an agency may detail personnel, lend or contribute material or equipment, or otherwise assist in carrying out the services provided for in this section.

''(e) ANNUAL REPORT.—The Commandant shall publish an annual report of the activities of the services provided for in this section. A copy of the report shall be provided to each interested foreign government and to each agency assisting in the work.

"§ 80303. Speed of vessel in ice region

''(a) REQUIREMENT.—The master of a vessel of the United States, when ice is reported on or near the vessel's course, shall proceed at a moderate speed or change the course of the vessel to go well clear of the danger zone.

''(b) CIVIL PENALTY.—A master violating this section is liable to the United States Government for a civil penalty of not more than $500.

"CHAPTER 805—SAFE CONTAINERS FOR INTERNATIONAL CARGO

''Sec.
''80501. Definitions.
''80502. Application of Convention.
''80503. General authority of the Secretary.
''80504. Approval and examination.
''80505. Enforcement.
''80506. Delegation of authority.
''80507. Employee protection.
''80508. Amendments to Convention.
''80509. Civil penalty.

"§ 80501. Definitions

''In this chapter:

''(1) CONTAINER.—The term 'container' has the meaning given that term in the Convention.

''(2) CONVENTION.—The term 'Convention' means the International Convention for Safe Containers, and its annexes, done at Geneva, Switzerland, December 2, 1972.

''(3) INTERNATIONAL TRANSPORT.—The term 'international transport' means the transportation of a container between—

''(A) a place in a foreign country and a place in the jurisdiction of the United States; or

''(B) two places outside the United States by United States carriers.

''(4) OWNER.—The term 'owner' includes the lessee or bailee of a container if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container.

''(5) SAFETY APPROVAL PLATE.—The term 'safety approval plate' has the meaning given that term in annex I of the Convention.

"§ 80502. Application of Convention

''The Convention applies to an owner of a container used in international transport if the owner is domiciled or has its principal office in the United States.

"§ 80503. General authority of the Secretary

''(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall carry out the Convention and this chapter in the United States.

''(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out this chapter. The regulations shall—

''(1) establish procedures for testing, inspecting, and initially approving containers and designs for containers, including procedures for attaching, invalidating, and removing safety approval plates for containers;

''(2) establish procedures to be followed by the owners of containers for the periodic examination of containers as provided in the Convention; and

''(3) provide a method for developing, collecting, and disseminating information about container safety and the international transport of containers.

''(c) SAFETY APPROVAL PLATES.—If the owner of a container without a safety approval plate establishes that the container satisfies the standards of the Convention, the Secretary may authorize a safety approval plate to be attached to the container.

''(d) SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees for services performed by the Secretary, or by a person delegated authority under section 80506 of this title, for the testing, inspection, and initial approval of containers and container designs.

''(e) ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent possible, the Secretary shall encourage the development and use of intermodal transport, using containers built to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading when it is being transported over land, air, and sea areas.

"§ 80504. Approval and examination

''(a) DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled and having its principal office in the United States shall have the container—

''(1) approved initially under procedures prescribed by the Secretary of the department in which the Coast Guard is operating or by the government of another country that is a party to the Convention; and

''(2) examined periodically as provided in the Convention under procedures prescribed by the Secretary.

''(b) DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled or having its principal office in the United States shall have the container—

''(1) approved initially under procedures prescribed by the Secretary or by the government of another country that is a party to the Convention; and

''(2) examined periodically as provided in the Convention, under procedures prescribed by the government of the country in which the owner is domiciled or has its principal office, as long as that country is a party to the Convention.

''(c) NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A container owner neither domiciled nor having its principal office in the United States or another country that is a party to the Convention may submit a container for initial approval and periodic examination under procedures prescribed by the Secretary.

"§ 80505. Enforcement

''(a) IN GENERAL.—To enforce the Convention, this chapter, and regulations prescribed under this chapter, the Secretary of the department in which the Coast Guard is operating may—

''(1) examine, or require to be examined, containers in international transport;

''(2) approve designs for containers;

''(3) inspect and test containers being manufactured;

''(4) issue a detention order removing or excluding a container from service until the container owner satisfies the Secretary that the container meets the standards of the Convention, if the container—

''(A) does not have a safety approval plate attached to it; or

''(B) has a safety approval plate attached but there is significant evidence that the container is in a condition that creates an obvious risk to safety;

''(5) take other appropriate action, including issuing necessary orders, to remove a container from service or restrict its use if the container is

not in compliance with the Convention, this chapter, or regulations prescribed under this chapter, but does not present an obvious risk to safety; and

''(6) allow a container found to be unsafe or without a safety approval plate to be moved to another location for repair or other disposition, under restrictions consistent with the intent of the Convention.

''(b) PAYMENT OF EXPENSES.—

''(1) EXAMINATION.—The owner of a container involved in an action by the Secretary under this section related to an examination of the container shall pay or reimburse the Secretary for the expenses arising from that action, except for the costs of routine examinations of the container or a safety approval plate.

''(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a container submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturer of a container that submits a design to the procedure established by the Secretary for testing, inspection, and initial approval, shall pay or reimburse the Secretary for the expenses arising from the testing, inspection, or approval.

''(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary as reimbursement shall be credited to the appropriation for operating expenses of the Coast Guard.

''(c) PRESUMPTION BASED ON SAFETY APPROVAL PLATE.—A container bearing a safety approval plate authorized by a country that is a party to the Convention is presumed to be in a safe condition unless there is significant evidence that the container is in a condition that creates an obvious risk to safety.

''(d) NOTICE OF ORDERS.—

''(1) IN GENERAL.—When the Secretary issues a detention or other order under this section, the Secretary promptly shall notify in writing—

''(A) the owner of the container;

''(B) the owner's agent; or

''(C) if the identity of the owner is not apparent from the container or shipping documents, the custodian.

''(2) INFORMATION TO INCLUDE.—The notification shall identify the container involved, give the location of the container, and describe the condition or situation giving rise to the order.

''(e) DURATION OF ORDERS.—An order issued by the Secretary under this section remains in effect until—

''(1) the Secretary declares the container to be in compliance with the standards of the Convention; or

''(2) the container is removed permanently from service.

''(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country.

''§ 80506. Delegation of authority

''(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

''(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

''(1) criteria to be followed in selecting a person to whom authority is to be delegated;

''(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and

''(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

''(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

''(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

''(1) assess or collect, or attempt to assess or collect, a penalty for violation of the Convention, this chapter, or an order issued by the Secretary under this chapter; or

''(2) issue or attempt to issue a detention or other order.

''(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication—

''(1) the name and address of each person to whom authority is delegated;

''(2) the duties and powers delegated; and

''(3) the period of the delegation.

''(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

''§ 80507. Employee protection

''(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

''(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation.

''(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee's former position with back pay.

''(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint.

''§ 80508. Amendments to Convention

''(a) PROPOSALS BY UNITED STATES GOVERNMENT.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

''(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States Government under article IX(2) of the Convention may be accepted for the Government by the President, with the advice and consent of the Senate. The President may declare that the Government does not accept an amendment.

''(c) AMENDMENTS TO ANNEXES.—

''(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

''(A) may propose amendments to the annexes to the Convention;

''(B) may propose a conference for amending annexes to the Convention; and

''(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the Government under article X(2) of the Convention.

''(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the Government, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

''(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

''§ 80509. Civil penalty

''(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than $5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

''(b) ASSESSMENT AND COLLECTION.—

''(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

''(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

''(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

''(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.''.

SEC. 11. MARITIME ADMINISTRATION.

Section 109 of title 49, United States Code, is amended to read as follows:

''§ 109. Maritime Administration

''(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

''(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

''(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

''(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

''(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

''(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

''(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out

duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

''(h) CONTRACTS AND AUDITS.—

''(1) CONTRACTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts for the United States Government and disburse amounts to—

''(A) carry out the Secretary's duties and powers under this section and subtitle V of title 46; and

''(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

''(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

''(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

''(A) acquisition, construction, or reconstruction of vessels;

''(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

''(C) costs of national defense features;

''(D) payments of obligations incurred for operating-differential subsidies;

''(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

''(F) the Vessel Operations Revolving Fund;

''(G) National Defense Reserve Fleet expenses;

''(H) expenses necessary to carry out part B of subtitle V of title 46; and

''(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

''(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.''.

SEC. 12. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF 2003.

(a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United States Code, is amended as follows:

(1) In section 53102—

(A) in the headings of paragraphs (1), (2), and (4) of subsection (c), strike ''SECTION 2'' and substitute ''SECTION 50501'';

(B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and (4)(B), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(C) in subsection (d), strike ''the first section of Public Law 81–891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)'' and substitute ''section 501 of this title''; and

(D) in subsection (e)(1)—

(i) strike ''a documented vessel (as that term is defined in section 12101 of this title)'' and substitute ''documented under chapter 121 of this title,''; and

(ii) in clause (B), strike ''a documented vessel (as defined in that section)'' and substitute ''documented under chapter 121''.

(2) In section 53103(c)—

(A) in the heading of paragraph (1)(C), strike ''SECTION 2'' and substitute ''SECTION 50501'';

(B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(C) in paragraph (1)(B), strike ''subparagraphs'' and substitute ''subparagraph''; and

(D) in paragraph (3)(B), strike ''agreement'' and substitute ''agreements''.

(3) In section 53104—

(A) in subsection (c)(3)(B)(ii)(I) and (II), strike ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' and substitute ''section 50501 of this title'';

(B) in subsection (e)(2), strike ''section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)'' and substitute ''section 56101 of this title''; and

(C) in subsection (e)(3), strike ''section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)'' and ''section 902 of such Act'' and substitute ''chapter 563 of this title'' and ''chapter 563'', respectively.

(4) In section 53105—

(A) in subsection (a)(1)(A), strike ''section 12105'' and substitute ''section 12111''; and

(B) in subsection (f), strike ''approve'' and substitute ''approves''.

(5) In section 53106—

(A) in subsection (d)(1), strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)'' and substitute ''section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10'';

(B) in subsection (d)(2), strike ''section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f),'' and substitute ''section 55302(a), 55305, or 55314 of this title''; and

(C) in subsection (e)(2), strike ''section 2(c) of the Shipping Act, 1916 (46 U.S.C. App. 802(c))'' and substitute ''section 50501 of this title, applying the 75 percent ownership requirement of that section''.

(6) In section 53107(f)—

(A) strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)'' and substitute ''section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10''; and

(B) strike ''section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), and 1241b)'' and substitute ''sections 55302(a), 55304, 55305, and 55314 of this title and section 2631 of title 10''; and

(7) In section 53108(b), strike ''section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1))'' and substitute ''section 55305(a) of this title''.

(b) OTHER CONFORMING AMENDMENTS.—

(1) SECTION 12111.—

(A) AMENDMENT.—Section 12111(c)(3) of title 46, United States Code, as enacted by this Act, is amended by striking ''subtitle B of title VI of the Merchant Marine Act, 1936'' and substituting ''chapter 531 of this title''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) is effective the date of enactment of this Act, or the effective date of section 3534(b)(1) of the Maritime Security Act of 2003 (117 Stat. 1818), whichever is later.

(2) REPEAL.—If this Act takes effect before the amendment made by section 3534(b)(1) of the Maritime Security Act of 2003 (Public Law 108–136, 117 Stat. 1818), such section 3534(b)(1) is repealed.

SEC. 13. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.

(a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C. 111, 123) is amended by striking ''or tonnage tax''.

(b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1213(a)), is amended by striking ''and section 211(a)''.

SEC. 14. ADDITIONAL AMENDMENTS TO TITLE 46.

Title 46, United States Code, is amended as follows:

(1) The analysis of subtitle II is amended as follows:

(A) In each chapter item, capitalize the first letter of each word containing 4 or more letters.

(B) Strike the item for chapter 39.

(C) The item for chapter 45 is amended to read as follows:

''45. Uninspected Commercial Fishing Industry Vessels ..... 4501''.

(2) Section 2101 is amended as follows:

(A) Clauses (2), (3), (3a), (6), (10), (10a), (12), (17b), (36), (41), (44), (45), and (46) are repealed.

(B) In clause (8a), insert ''Prevention'' after ''Abuse''.

(C) In clause (18), strike ''those''.

(D) In clause (34)—

(i) strike '', except in part H,''; and

(ii) strike ''head'' and substitute ''Secretary''.

(3) In section 2102—

(A) in subsection (a)(2), strike ''section 2101(36) and (44)'' and substitute ''chapter 1''; and

(B) in subsection (b), strike ''West'' and ''East'' and substitute ''west'' and ''east'', respectively.

(4) In section 2106, strike ''a district court of the United States'' and substitute ''the district court of the United States for any district''.

(5) Section 2108 is repealed.

(6) In section 2110—

(A) in subsection (a)(2), strike ''part B of this title'' and substitute ''part B of this subtitle'';

(B) in subsection (b)(2)(A)(iii), strike the period at the end and substitute ''; and'';

(C) in subsection (b)(5), strike ''fees'' and substitute ''fee'';

(D) In subsection (f), strike ''Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security shall deny the clearance required by section 60105 of this title''; and

(E) In subsection (j), strike ''state'' and substitute ''State''.

(7) In section 2301, strike ''section'' and substitute ''sections 2304 and''.

(8) In section 2304—

(A) insert the paragraph designation ''(1)'' after ''(a)''; and

(B) insert at the end of subsection (a) the following new paragraph:

''(2) Paragraph (1) does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.''.

(9) In section 2306(a)(2), strike ''section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a),'' and substitute ''section 50113 of this title''.

(10) In section 3205(d), strike ''Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title''.

(11) In section 3302—

(A) in subsection (b), insert a comma after ''fishing vessel'';

(B) in subsection (j)(2)(B), strike ''section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c)'' and substitute ''chapter 515 of this title''; and

(C) in subsection (l)(1)(C), strike ''Inc..'' and substitute ''Inc.''.

(12) In section 3306(d), strike ''section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))'' and substitute ''section 51102 of this title''.

(13) In section 3318(f), strike the period after ''felony''.

(14) In section 3505, strike ''section 3303(a)'' and substitute ''section 3303''.

(15) In the analysis of chapter 37, the item for section 3719 is amended to read as follows:

''3719. Reduction of oil spills from single hull non-self-propelled tank vessels.''.

(16) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike ''documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)'' and substitute ''documentation as a wrecked vessel under section 12112 of this title''.

(17) In section 3704, strike ''section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883),'' and substitute ''chapter 551 of this title''.

(18) In section 3718(e)(1), strike ''Secretary of the Treasury'' and ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security'' and ''section 60105 of this title'', respectively.

(19) In section 4702, strike the subsection ''(a)'' designation.

(20) In section 4705—

(A) strike ''subcontractor not'' and substitute ''subcontractor are not'';

(B) strike ''(a)(1)'' and substitute ''(a)'';

(C) strike ''(2) Paragraph (1)'' and substitute ''(b) Subsection (a)'';

(D) strike ''(A)'' and substitute ''(1)''; and

(E) strike ''(B)'' and substitute ''(2)''.

(21) In section 5113(b), strike ''section 4197 of the Revised Statutes (46 App. U.S.C. 91)'' and substitute ''section 60105 of this title''.

(22) In section 6101, redesignate the second subsection (g) and subsection (h) as subsections (h) and (i), respectively.

(23) In section 8103(a), strike ''Only'' and substitute ''Except as otherwise provided in this title, only''.

(24) In section 9307(b)(2)(A), strike ''The'' and substitute ''the''.

(25) In section 12503(a), in the matter before clause (1), strike ''delegee'' and substitute ''delegate''.

(26) In section 13102(a), insert ''(26 U.S.C. 9504)'' after ''Internal Revenue Code of 1986''.

(27) In section 14305(a)—

(A) in clause (1), strike ''and sections 12106(c) and 12108(c)'' and substitute ''of this subtitle and section 12116'';

(B) in clause (5), strike ''section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183)'' and substitute ''section 30506 of this title'';

(C) in clause (6), strike ''sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883–1)'' and substitute ''sections 12118 and 12132 of this title''; and

(D) in clause (7), strike ''Act of July 14, 1956 (46 App. U.S.C. 883a)'' and substitute ''section 12139(b) of this title''.

(28) In section 31306(a), strike ''section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835)'' and substitute ''section 56102 or 56103 of this title''.

(29) In section 31308, strike ''title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)'' and substitute ''chapter 537 of this title''.

(30) In section 31322—

(A) in subsection (a)(4)(A), strike ''section 12102(c)'' and substitute ''section 12113(c)'';

(B) in subsection (a)(4)(E), strike ''under section 12102(a)'' and substitute ''for purposes of documentation under section 12103'';

(C) in subsection (f)(2), strike ''section 12102(c)'' and substitute ''section 12113(c)''.

(31) In section 31325(b)(3)(B), strike ''section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)'' and substitute ''section 56101 or 56102 of this title''.

(32) In section 31326(b)—

(A) in clause (1), strike ''title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)'' and substitute ''chapter 537 of this title,''; and

(B) in clause (2), strike ''title XI of that Act'' and substitute ''chapter 537 of this title''.

(33) In section 31329—

(A) in subsection (a)(1), strike ''section 12102'' and substitute ''section 12103''; and

(B) in subsection (b)—

(i) in clause (2), strike ''section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)'' and substitute ''chapter 563 of this title''; and

(ii) in clause (3), strike ''sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)'' and substitute ''sale to a person not a citizen of the United States under section 12132 of this title''.

(34)(A) Sections 70118 and 70119, as added by section 801 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(B) Sections 70117 and 70118, as added by section 802 of such Act, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(C) In section 70120(a) (as redesignated by subparagraph (B)), strike ''section 70120'' and substitute ''section 70119''.

(D) In section 70121(a) (as redesignated by subparagraph (B))—

(i) strike ''section 70120'' and substitute ''section 70119''; and

(ii) strike ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)'' and substitute ''section 60105 of this title''.

(E) In the analysis of chapter 701, strike the items relating to sections 70117–70119 and substitute the following:

''70117. Firearms, arrests, and seizure of property.

''70118. Enforcement by State and local officers.

''70119. Civil penalty.

''70120. In rem liability for civil penalties and certain costs.

''70121. Withholding of clearance.''.

SEC. 15. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike ''The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''Chapter 705 of title 46''

(2) In section 2218(d)(2), strike ''sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund'' and substitute ''sections 57101–57104 and chapter 573 of title 46''.

(3) In section 2350b(g)(2), strike ''section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))'' and substitute ''section 55305 of title 46''.

(4) In section 2645—

(A) in subsection (c), strike ''the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))'' and substitute ''section 53909(b) of title 46'';

(B) in subsection (h)(1), strike ''title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.),'' and substitute ''chapter 539 of title 46''; and

(C) in subsection (h)(2), strike ''the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))'' and substitute ''section 53909(a) of title 46''.

(5) In section 2664(a)(3), strike ''transferred to the Secretary of Transportation under section 3 of the Maritime Act of 1981 (46 U.S.C. App. 1602)'' and substitute ''of the Secretary of Transportation relating to the Maritime Administration''.

(6) In section 5985, strike ''section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c),'' and substitute ''chapter 515 of title 46''.

(7) In section 7721(a), strike ''the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)'' and substitute ''chapter 311 of title 46''.

(b) TITLE 11.—Title 11, United States Code, is amended as follows:

(1) In section 362(b)—

(A) in clause (12), strike ''section 207 or title XI of the Merchant Marine Act, 1936'' and substitute ''chapter 537 of title 46 or section 109(h) of title 49''; and

(B) in clause (13), strike ''section 207 or title XI of the Merchant Marine Act, 1936'' and substitute ''chapter 537 of title 46''.

(2) In section 1110(a)(3)(A)(ii), strike ''documented vessel (as defined in section 30101(1) of title 46)'' and substitute ''vessel documented under chapter 121 of title 46''.

(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking clauses (3)–(5) and substituting the following:

''(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

''(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

''(5) Chapter 311 of title 46 (known as the Public Vessels Act).''.

(d) TITLE 18.—Title 18, United States Code, is amended as follows:

(1) In section 229F(9)(C), strike ''section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))'' and substitute ''section 70502(b) of title 46, United States Code''.

(2) In section 507—

(A) in the first paragraph, strike ''recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States'' and substitute ''documentation of any vessel'';

(B) in the first paragraph, strike ''collector or other''; and

(C) in the second paragraph, strike ''license,''.

(3) In section 924—

(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''; and

(B) in subsection (g)(2), strike ''802 et seq.'' and substitute ''801 et seq.''.

(4) In section 929(a)(2), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(5) In section 965(a), strike ''section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)'' and substitute ''section 60105 of title 46''.

(6) In section 2277(a), strike ''registered, enrolled, or licensed'' and substitute ''documented''.

(7) In section 3142(e) and (f)(1)(C), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 56(c)(2)—

(A) strike ''section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)'' and substitute ''chapter 535 of title 46, United States Code''; and

(B) in clauses (A) and (B), strike ''such section 607'' substitute ''such chapter 535''.

(2) In section 140(a)(4), strike ''section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)'' and substitute ''section 53507 of title 46, United States Code''.

(3) In section 543(a)(1)(B), strike ''section 511 or 607 of the Merchant Marine Act, 1936 (46

U.S.C. App. 1161 or 1177)'' and substitute ''chapter 533 or 535 of title 46, United States Code''.

(4) In section 1023(2), strike ''section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)'' and substitute ''chapter 533 of title 46, United States Code''.

(5) In section 1061—

(A) in clause (1), strike ''section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)'' and substitute ''chapter 573 of title 46, United States Code, see section 57307 of title 46'';

(B) in clause (2), strike ''section 511 of such Act, as amended (46 U.S.C. App. 1161)'' and substitute ''chapter 533 of title 46, United States Code''; and

(C) strike clause (3).

(6) In section 7518—

(A) in subsection (a)(1), strike ''section 607 of the Merchant Marine Act, 1936'' and substitute ''chapter 535 of title 46 of the United States Code'';

(B) in subsections (a)(2) and (c)(1)(A) and (D), strike ''section 607 of the Merchant Marine Act, 1936'' and substitute ''chapter 535 of title 46, United States Code''; and

(C) in subsection (g)(3)(C)(iii), strike ''Merchant Marine Act of 1936'' and substitute ''Merchant Marine Act, 1936,''.

(f) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 994(h)(1)(B) and (2)(B), strike ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' and substitute ''chapter 705 of title 46''.

(2) In section 1605(d), strike ''the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following)'' and ''that Act'' and substitute ''section 31301 of title 46'' and ''chapter 313 of title 46'', respectively.

(3) In section 2342(3)—

(A) in clause (A), strike ''section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)'' and substitute ''section 50501, 50502, 56101–56104, or 57109 of title 46''; and

(B) strike clause (B) and substitute the following:

''(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;''.

(4) In section 2680(d), strike ''sections 741–752, 781–790 of Title 46,'' and substitute ''chapter 309 or 311 of title 46''.

(g) TITLE 40.—Title 40, United States Code, is amended as follows:

(1) In section 548, strike ''the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.),'' and substitute ''part F of subtitle V of title 46''.

(2) In section 3134(b), strike ''the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)'' and substitute ''subtitle V of title 46''.

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike ''Secretary of the Treasury'' and ''section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)'' and substitute ''Secretary of Homeland Security'' and ''section 60105 of title 46'', respectively.

(2) In section 5901(3)(B), strike ''section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)'' and substitute ''section 40102 of title 46''.

(i) MISCELLANEOUS.—Section 5501(a) of the Oceans Act of 1992 (Public Law 102–587, 106 Stat. 5084) is amended by adding the following:

''(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1).''

SEC. 16. LEGISLATIVE CONSTRUCTION AND TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—The purpose of this Act is to complete the codification of title 46, United States Code, ''Shipping'', as positive law, in accordance with section 285b(1) of title 2, United States Code.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws encompassed by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections both of substance and of form.

(c) CUTOFF DATE.—This Act codifies certain laws enacted as of August 31, 2004. Any law enacted after that date that is inconsistent with this Act, including any law purporting to amend or repeal a provision that is repealed by this Act, supersedes this Act to the extent of the inconsistency.

(d) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, the date of enactment of a provision codified by this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision that is codified.

(e) REFERENCES IN OTHER PROVISIONS.—A reference to a provision of law codified by this Act, including a reference in another law or in a rule, regulation, or order, is deemed to refer to the corresponding provision enacted by this Act.

(f) SAVINGS PROVISIONS.—

(1) RULES, REGULATIONS, AND ORDERS.—A rule, regulation, or order in effect under a provision of law codified by this Act continues in effect under the corresponding provision enacted by this Act.

(2) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision of law codified by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

SEC. 17. REPEALS.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, or proceedings that were begun before the date of enactment of this Act:

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1956					
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July 14	600	2	70	544	883a
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1960					
June 12	86–518	9	74	217	1125 nt
1961					
Sept. 13	87–220	2	75	493	251a
		3	75	493	251b
1965					
June 30	89–56		79	195	1111 nt
July 30	89–99	1	79	424	441
		3	79	424	443
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1966					
Nov. 6	89–777	2	80	1356	817d
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July 14	94–361	603	90	929	1126–1
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Oct. 6	96–382	1	94	1525	763a
Oct. 7	96–387	5	94	1546	1121–1
1981					
Aug. 6	97–31	2	95	151	1601
		3	95	151	1602
		4	95	151	1603
		5	95	151	1604
		6	95	151	1605
		8	95	152	1607
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1982					
Oct. 15	97–322	201	96	1588	446 nt
		204	96	1589	446
		205	96	1589	446a
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		913	100	892	1809
1987					
Dec. 22	100–202	101(a) [title V (par. under heading ''Ocean Freight Differential'')]	101	1329, 1329–27	1241h nt
		101(a) [title V (4th proviso on p. 1329-28)]	101	1329, 1329–28	1295c–1
1988					
May 30	100–324	1	102	576	2001 nt
		2	102	576	2001
		3	102	576	2002
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Aug. 23	100–418	10002	102	1570	1710a
1989					
Oct. 13	101–115	4	103	692	1295c nt
		8	103	694	1121–2
1990					
Nov. 28	101–624	1521	104	3665	1241q
		1522	104	3665	1241r
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1993					
Nov. 30	103–160	1358	107	1816	1280a
1996					
Oct. 19	104–324	1117	110	3973	46 U.S.C. 12101 nt
		1120(f)	110	3978	883 nt
1998					
Oct. 14	105–258	401	112	1916	1273a
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2000					
Oct. 30	106–398	1 [§ 3506]	114	1654, 1654A–494	1118 nt
2002					
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SEC. 18. EFFECTIVE DATE.

This Act shall take effect on October 1, 2004, or the date of enactment of this Act, whichever is later.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4319, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, this bill, the Title 46 Codification Act of 2004, completes the codification of title 46, United States

Code, relating to shipping as positive law. The gentleman from Michigan (Mr. CONYERS), ranking member, and I jointly introduced this legislation on May 10, 2004.

The bill was prepared by the Office of the Law Revision Counsel as a part of the program required by 2 U.S.C., section 285(b), to prepare and submit to the Committee on the Judiciary, one title at a time, a complete complication, restatement, and revision of the general and permanent laws of the United States. This bill makes no substantive change in existing law. Rather, the bill removes ambiguities, contradictions, and other imperfections from existing law and it repeals obsolete, superfluous, and superseded provisions.

After introduction, the bill was circulated for comment to interested parties, including committees of the Congress and agencies of the government. All comments were to be submitted no later than 45 days after the bill was introduced. The Federal Maritime Commission and the Department of Transportation provided extensive comments on the bill. Several other agencies and departments of the government also provided comments.

The Office of the Law Revision Counsel reviewed and considered all comments, contacting the interested parties to resolve outstanding questions. Some comments proposing changes to improve the organization and clarity were incorporated in the restatement. Other comments, either suggesting substantive changes to existing law or expressing opposition to the substance of existing law, could not be incorporated in the restatement. This bill makes no substantive change in existing law and is not intended to do so. That is not the function of Law Revision Counsel bills. They reorganize and clean up the law and do not change the substance. Thus, Members should understand that because of the nature of this bill, supporting it does not imply support of the underlying provisions that are being reorganized and cleaned up.

At committee I offered a substitute amendment prepared by the Office of the Law Revision Counsel which incorporated additional changes to the Code which were recommended as a result of the review and comment process. That is the text that is before us today. The Law Revision Counsel has indicated that he is satisfied that the substitute text makes no substantive change to existing law and that no additional cost to the government would be incurred as a result of the enactment of H.R. 4319.

I would like to express the committee's appreciation for the work of the Law Revision Counsel and his staff on this bill. I urge all Members to support this legislation.

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

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

Today I rise in support of H.R. 4319, the Title 46 Codification Act of 2004. This bill, which is sponsored by the chairman and ranking member of the Committee on the Judiciary, enacts into positive law title 46 of the U.S. Code, entitled ''shipping.'' In addition H.R. 4319 also sets forth organizational and administrative provisions regarding the Federal Maritime Commission.

Title 46 of the U.S. Code has been partially codified and enacted by Congress into law. The partial revision, as it currently exists, was begun in 1983. However, while certain laws concerning marine safety and maritime liability were codified, overall revision of title 46 was not completed. Specifically, the extensive portions of title 46 that have not been codified appear as an appendix to the title, but much of the appendix consists of numerous public laws that have been enacted over the last century with little attention to the organization of maritime law as a single body of law. As a result, the current format of title 46 is disjointed, confusing, and often without apparent logic.

This legislation is necessary largely because of the many laws that comprise the appendix date back to the late 1800s and early 1900s and are written in language that is archaic and difficult to understand. There is also a significant amount of redundancy and obsolete material within the appendix. This bill would eliminate those redundancies, obsolete provisions, and unnecessary archaic verbiage. Overall, H.R. 4319 makes significant improvements to the organization, accuracy, and clarity of title 46. I urge my colleagues to vote ''yes'' on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 4319, a piece of legislation introduced by Chairman SENSENBRENNER and Ranking Member CONYERS to complete the codification of title 46 of the United States Code.

Codification of this legislation is important because it integrates the myriad of Federal, State, local and private law enforcement agencies overseeing the security of the international borders at our seaports. Furthermore, it authorizes more security officers, more screening equipment, and the building of important security infrastructure at seaports.

U.S. seaports—especially high volume ports such as the Port of Houston with major multimodal hubs—are especially vulnerable to terrorist attacks because we do not have security mechanisms in place between modes, for example the interface between aircraft and ship. We must spend wisely to improve personnel and technology as are called for in the Secure COAST Act.

Terrorists could cause mass casualties and serious damage to the economy if a weapon of mass destruction (WMD) is detonated in a container or if a large passenger vessel is attacked. Ports serve as America's gateways to the global economy. The Nation's economic prosperity rests on the ability of containerized and bulk cargo to arrive at their destination ports unimpeded to support the ''just in time'' delivery system that underpins the manufacturing and retail sectors. In addition, a large majority of America's energy sources arrive in large oil and gas tankers, which are prime targets for the terrorists.

Recent reports state that Al-Qaida may be planning a maritime terrorist attack. The Department of Homeland Security has several initiatives dedicated to preventing terrorists from attacking America's ports. Despite these efforts, many security gaps remain. That is why I have joined my Democratic colleagues in co-sponsoring and introducing the secure Containers from Overseas And Seaports from Terrorism Act—or Secure COAST Act. This new proposal would supplement the Maritime Security Act, which H.R. 4319 codifies.

Seven million containers arrive at U.S. seaports, many times sealed with only a padlock or lead tag, making them vulnerable to tampering. There are currently no sealing standards for containers or a process to verify that seals have not been disturbed. The Secure COAST Act would require DHS to develop sealing standards for containers and a verification process to ensure containers have not been tampered with.

Currently, only two seaports in the entire country have the ability to screen for nuclear material entering our country. One of these ports—the Port of Norfolk—had to purchase the portal monitor itself.

The Coast Guard estimates that ports will need to spend $1.1 billion over the next year to comply with new security regulations put in place by the Bush administration, but the president has requested only $46 million for grant funding since 9/11.

The U.S. Coast Guard fleet is the third oldest naval fleet in the world and its force size is comparable to the manpower level in 1966. We must authorize and implement provisions to supplement H.R. 4319 to accelerate the completion of the Coast Guard's Deepwater program to provide new ships to the fleet from 22 to 10 years and authorize an end-strength to 50,000 people, almost a 25 percent increase from current levels. It is time that the proper funding and appropriate resources are allocated for this vital mission to truly protect the American public.

I support this legislation, H.R. 4319, and I urge my colleagues to do the same.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4319, 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.

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4077) to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the

Internet, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4077

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

TITLE I—PIRACY DETERRENCE IN EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Piracy Deterrence and Education Act of 2004''.

SEC. 102. FINDINGS.

The Congress finds as follows:

(1) The Internet, while changing the way our society communicates, has also changed the nature of many crimes, including the theft of intellectual property.

(2) Trafficking in infringing copyrighted works through increasingly sophisticated electronic means, including peer-to-peer file trading networks, Internet chat rooms, and news groups, threatens lost jobs, lost income for creators, lower tax revenue, and higher prices for honest purchasers.

(3) The most popular peer-to-peer file trading software programs have been downloaded by computer users over 600,000,000 times. At any one time there are over 3,000,000 users simultaneously using just one of these services. Each month, on average, over 2,300,000,000 digital-media files are transferred among users of peer-to-peer systems.

(4) Many computer users simply believe that they will not be caught or prosecuted for their conduct.

(5) The security and privacy threats posed by certain peer-to-peer networks extend beyond users inadvertently enabling a hacker to access files. Millions of copies of one of the most popular peer-to-peer networks contain software that could allow an independent company to take over portions of users' computers and Internet connections and has the capacity to keep track of users' online habits.

(6) In light of these considerations, Federal law enforcement agencies should actively pursue criminals who steal the copyrighted works of others, and prevent such activity through enforcement and awareness. The public should be educated about the security and privacy risks associated with being connected to certain peer-to-peer networks.

SEC. 103. VOLUNTARY PROGRAM OF DEPARTMENT OF JUSTICE.

(a) VOLUNTARY PROGRAM.—The Attorney General is authorized to establish a program under which the Department of Justice, in cases where persons who are subscribers of Internet service providers appear to the Department of Justice to be engaging in copyright infringing conduct in the course of using such Internet service, would send to the Internet service providers warning letters that warn such persons of the penalties for such copyright infringement. The Internet service providers may forward the warning letters to such persons.

(b) LIMITATIONS ON PROGRAM.—

(1) EXTENT AND LENGTH OF PROGRAM.—The program under subsection (a) shall terminate at the end of the 18-month period beginning on the date of the enactment of this Act and shall be limited to not more than 10,000 warning letters.

(2) PRIVACY PROTECTIONS.—No Internet service provider that receives a warning letter from the Department of Justice under subsection (a) may disclose to the Department any identifying information about the subscriber that is the subject of the warning letter except pursuant to court order or other applicable legal process that requires such disclosure.

(c) REIMBURSEMENT OF INTERNET SERVICE PROVIDERS.—The Department of Justice shall reimburse Internet service providers for all reasonable direct costs incurred by such service providers in identifying the proper recipients of the warning letters under subsection (a) and forwarding the letters.

(d) REPORTS TO CONGRESS.—The Attorney General shall submit to the Congress a report on the program established under subsection (a) both at the time the program is initiated and at the conclusion of the program.

(e) INADMISSIBILITY OF EVIDENCE.—The fact that an Internet service provider participated in the program under subsection (a), received a warning letter from the Department of Justice, was aware of the contents of the warning letter, or forwarded the warning letter to a subscriber, shall not be admissible in any legal proceeding brought against the Internet service provider.

(f) CONSTRUCTION.—Nothing in this section shall be construed to affect the ability of a court to consider, in a legal proceeding brought against an Internet service provider, notifications of claimed infringement as described in section 512(c)(3) of title 17, United States Code, or any other relevant evidence, other than that described in subsection (e).

SEC. 104. DESIGNATION AND TRAINING OF AGENTS IN COMPUTER HACKING AND INTELLECTUAL PROPERTY UNITS.

(a) DESIGNATION OF AGENTS IN CHIPS UNITS.—The Attorney General shall ensure that any unit in the Department of Justice responsible for investigating computer hacking or responsible for investigating intellectual property crimes is assigned at least one agent to support such unit for the purpose of investigating crimes relating to the theft of intellectual property.

(b) TRAINING.—The Attorney General shall ensure that each agent assigned under subsection (a) has received training in the investigation and enforcement of intellectual property crimes.

SEC. 105. EDUCATION PROGRAM.

(a) ESTABLISHMENT.—There shall be established within the Office of the Associate Attorney General of the United States an Internet Use Education Program.

(b) PURPOSE.—The purpose of the Internet Use Education Program shall be to—

(1) educate the general public concerning the value of copyrighted works and the effects of the theft of such works on those who create them; and

(2) educate the general public concerning the privacy, security, and other risks of using the Internet to obtain illegal copies of copyrighted works.

(c) SECTOR SPECIFIC MATERIALS.—The Internet Use Educational Program shall, to the extent appropriate, develop materials appropriate to Internet users in different sectors of the general public where criminal copyright infringement is a concern. The Attorney General shall consult with appropriate interested parties in developing such sector-specific materials.

(d) CONSULTATIONS.—The Attorney General shall consult with the Register of Copyrights and the Secretary of Commerce in developing the Internet Use Education Program under this section.

(e) PROHIBITION ON USE OF CERTAIN FUNDS.—The program created under this section shall not use funds or resources of the Department of Justice allocated for criminal investigation or prosecution.

(f) ADDITIONAL PROHIBITION ON THE USE OF FUNDS.—The program created under this section shall not use any funds or resources of the Department of Justice allocated for the Civil Rights Division of the Department, including any funds allocated for the enforcement of civil rights or the Voting Rights Act of 1965.

SEC. 106. ACTIONS BY THE GOVERNMENT OF THE UNITED STATES.

Section 411(a) of title 17, United States Code, is amended in the first sentence by striking ''Except for'' and inserting ''Except for an action brought by the Government of the United States or by any agency or instrumentality thereof, or'' .

SEC. 107. AUTHORIZED APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice for fiscal year 2005 not less than $15,000,000 for the investigation and prosecution of violations of title 17, United States Code.

SEC. 108. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

''§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

''(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

''(1) be imprisoned for not more than 3 years, fined under this title, or both; or

''(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

''(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of an offense under subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

''(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

''(d) IMMUNITY FOR THEATERS AND AUTHORIZED PERSONS.—With reasonable cause, the owner or lessee of a motion picture facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

''(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of committing an offense under this section for the purpose of questioning that person or summoning a law enforcement officer; and

''(2) shall not be held liable in any civil or criminal action by reason of a detention under paragraph (1).

''(e) VICTIM IMPACT STATEMENT.—

''(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure,

victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

''(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

''(A) producers and sellers of legitimate works affected by conduct involved in the offense;

''(B) holders of intellectual property rights in the works described in subparagraph (A); and

''(C) the legal representatives of such producers, sellers, and holders.

''(f) DEFINITIONS.—In this section:

''(1) AUDIOVISUAL WORK, COPY, ETC.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

''(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

''(3) MOTION PICTURE EXHIBITION FACILITY.—The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.

''(g) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

''2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.''.

SEC. 109. SENSE OF THE CONGRESS ON NEED TO TAKE STEPS TO PREVENT ILLEGAL ACTIVITY ON PEER-TO-PEER SERVICES.

(a) FINDINGS.—The Congress finds as follows:

(1) The most popular publicly accessible peer-to-peer file sharing software programs combined have been downloaded worldwide over 600,000,000 times.

(2) The vast majority of software products, including peer-to-peer technology, do not pose an inherent risk. Responsible persons making software products should be encouraged and commended for the due diligence and reasonable care they take including by providing instructions, relevant information in the documentation, disseminating patches, updates, and other appropriate modifications to the software.

(3) Massive volumes of illegal activity, including the distribution of child pornography, viruses, and confidential personal information, and copyright infringement occur on publicly accessible peer-to-peer file sharing services every day. Some publicly accessible peer-to-peer file sharing services expose consumers, particularly children, to serious risks, including legal liability, loss of privacy, threats to computer security, and exposure to illegal and inappropriate material.

(4) Several studies and reports demonstrate that pornography, including child pornography, is prevalent on publicly available peer-to-peer file sharing services, and children are regularly exposed to pornography when using such peer-to-peer file sharing services.

(5) The full potential of peer-to-peer technology to benefit consumers has yet to be realized and will not be achieved until these problems are adequately addressed.

(6) To date, the businesses that run publicly accessible file-sharing services have refused or failed to voluntarily and sufficiently address these problems.

(7) Many users of publicly available peer-to-peer file-sharing services are drawn to these systems by the lure of obtaining ''free'' music and movies.

(8) While some users use parental controls to protect children from pornography available on the Internet and search engines, not all such controls work on publicly accessible peer-to-peer networks.

(9) Businesses that run publicly accessible peer-to-peer file sharing services have openly acknowledged, and numerous studies and reports have established, that these services facilitate and profit from massive amounts of copyright infringement, causing enormous damage to the economic well-being of the copyright industries whose works are being illegally ''shared'' and downloaded.

(10) The legitimate digital music marketplace offers consumers a wide and growing array of choices for obtaining music legally, without exposure to the risks posed by publicly accessible peer-to-peer file sharing services.

(11) The Federal Trade Commission issued a Consumer Alert in July of 2003 warning consumers that some file-sharing services contain damaging viruses and worms and, without the computer user's knowledge or consent, install spyware to monitor a user's browsing habits and send data to third parties or automatically open network connections.

(12) Publicly available peer-to-peer file-sharing services can and should adopt reasonable business practices and use technology in the marketplace to address the existing risks posed to consumers by their services and facilitate the legitimate use of peer-to-peer file sharing technology and software.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) responsible software developers should be commended, recognized, and encouraged for their efforts to protect consumers;

(2) currently the level of ongoing and persistent illegal and dangerous activity on publicly accessible peer-to-peer file sharing services is harmful to consumers, minors, and the economy; and

(3) therefore, the Congress and the executive branch should consider all appropriate measures to protect consumers and children, and prevent such illegal activity.

SEC. 110. ENHANCEMENT OF CRIMINAL COPYRIGHT INFRINGEMENT.

(a) CRIMINAL INFRINGEMENT.—Section 506 of title 17, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) CRIMINAL INFRINGEMENT.—Any person who—

''(1) infringes a copyright willfully and for purposes of commercial advantage or private financial gain,

''(2) infringes a copyright willfully by the reproduction or distribution, including by the offering for distribution to the public by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000, or

''(3) infringes a copyright by the knowing distribution, including by the offering for distribution to the public by electronic means, with reckless disregard of the risk of further infringement, during any 180-day period, of—

''(A) 1,000 or more copies or phonorecords of 1 or more copyrighted works,

''(B) 1 or more copies or phonorecords of 1 or more copyrighted works with a total retail value of more than $10,000, or

''(C) 1 or more copies or phonorecords of 1 or more copyrighted pre-release works,

shall be punished as provided under section 2319 of title 18. For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish the necessary level of intent under this subsection.''; and

(2) by adding at the end the following:

''(g) LIMITATION ON LIABILITY OF SERVICE PROVIDERS.—No legal entity shall be liable for a violation of subsection (a)(3) by reason of performing any function described in subsection (a), (b), (c), or (d) of section 512 if such legal entity would not be liable for monetary relief under section 512 by reason of performing such function. Except for purposes of determining whether an entity qualifies for the limitation on liability under subsection (a)(3) of this section, the legal conclusion of whether an entity qualifies for a limitation on liability under section 512 shall not be considered in a judicial determination of whether the entity violates subsection (a) of this section.

''(h) DEFINITIONS.—In this section:

''(1) PRE-RELEASE WORK.—The term 'pre-release work' refers to a work protected under this title which has a commercial and economic value and which, at the time of the act of infringement that is the basis for the offense under subsection (a)(3), the defendant knew or should have known had not yet been made available by the copyright owner to individual members of the general public in copies or phonorecords for sale, license, or rental.

''(2) RETAIL VALUE.—The 'retail value' of a copyrighted work is the retail price of that work in the market in which it is sold. In the case of an infringement of a copyright by distribution, if the retail price does not adequately reflect the economic value of the infringement, then the retail value may be determined using other factors, including but not limited to suggested retail price, wholesale price, replacement cost of the item, licensing, or distribution-related fees.''.

(b) PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

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

''(d) Any person who commits an offense under section 506(a)(3) of title 17—

''(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 5 years, or fined in the amount set forth in this title, or both; and

''(2) shall, if the offense is a second or subsequent offense under paragraph (1), be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 10 years, or fined in the amount set forth in this title, or both.''; and

(3) in subsection (f), as so redesignated—

(A) in paragraph (1), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(3) the term 'financial gain' has the meaning given that term in section 101 (relating to definitions) of title 17.''.

(c) CIVIL REMEDIES FOR INFRINGEMENT OF A COMMERCIAL PRE-RELEASE COPYRIGHTED WORK.—Section 504(b) of title 17, United States Code, is amended—

(1) by striking ''The copyright owner'' and inserting the following:

''(1) IN GENERAL.—The copyright owner''; and

(2) by adding at the end the following:

''(2) DAMAGES FOR PRE-RELEASE INFRINGEMENT.—

''(A) IN GENERAL.—In the case of any pre-release work, actual damages shall be presumed conclusively to be no less than $10,000 per infringement, if a person—

''(i) distributes such work by making it available on a computer network accessible to members of the public; and

''(ii) knew or should have known that the work was intended for commercial distribution.

''(B) DEFINITION.—For purposes of this subsection, the term 'pre-release work' has the meaning given that term in section 506(h).''.

SEC. 111. AMENDMENT OF FEDERAL SENTENCING GUIDELINES REGARDING THE INFRINGEMENT OF COPYRIGHTED WORKS AND RELATED CRIMES.

(a) AMENDMENT TO THE SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including sections 2318, 2319, 2319A, 2319B, 2320 of title 18, United States Code, and sections 506, 1201, and 1202 of title 17, United States Code.

(b) FACTORS.—In carrying out this section, the Sentencing Commission shall—

(1) take all appropriate measures to ensure that the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) are sufficiently stringent to deter and adequately reflect the nature of such offenses;

(2) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a) when the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before the time when the copyright owner has authorized the display, performance, publication, reproduction, or distribution of the original work, whether in the media format used by the infringing good or in any other media format;

(3) consider whether the definition of ''uploading'' contained in Application Note 3 to Guideline 2B5.3 is adequate to address the loss attributable to people broadly distributing copyrighted works over the Internet without authorization; and

(4) consider whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from infringement in circumstances where law enforcement cannot determine how many times copyrighted material is reproduced or distributed.

(c) PROMULGATION.—The Commission may promulgate the guidelines or amendments under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 112. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) SHORT TITLE.—This section may be cited as the ''Family Movie Act of 2004''.

(b) EXEMPTION FROM COPYRIGHT AND TRADEMARK INFRINGEMENT FOR SKIPPING OF AUDIO OR VIDEO CONTENT OF MOTION PICTURES.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking ''and'' after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and'';

(3) by inserting after paragraph (10) the following:

''(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed for such use at the direction of a member of a private household, if—

''(A) no fixed copy of the altered version of the motion picture is created by such computer program or other technology; and

''(B) no changes, deletions or additions are made by such computer program or other technology to commercial advertisements, or to network or station promotional announcements, that would otherwise be performed or displayed before, during or after the performance of the motion picture.''; and

(4) by adding at the end the following:

''For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.''.

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

''(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

''(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible that is authorized under subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. Subparagraph (A) shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this subparagraph.

''(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2004.''.

(d) DEFINITION.—In this section, the term ''Trademark Act of 1946'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE II—MISCELLANEOUS

SEC. 201. DESIGNATION OF NATIONAL TREE.

(a) DESIGNATION.—Chapter 3 of title 36, United States Code, is amended by adding at the end the following:

''§ 305. National tree

''The tree genus Quercus, commonly known as the oak tree, is the national tree.''.

(b) CONFORMING AMENDMENTS.—Such title is amended—

(1) in the table of contents for part A of subtitle I, by striking ''**, and March**'' and inserting ''**March, and Tree**'';

(2) in the chapter heading for chapter 3, by striking '', AND MARCH'' and inserting ''MARCH, AND TREE''; and

(3) in the table of sections for chapter 3, by adding at the end the following:

''305. National tree.''.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4077, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, this legislation addresses the growing piracy problem facing our Nation's creative community. New technologies have made copyright piracy an even easier activity to undertake than before. The number of pirating files continues to increase. Although the technology is not the problem, our Nation's laws need to be updated to reflect the impact of this new technology.

In response to the increase in piracy, the copyright community has been investing time and money in campaigns to educate America about the need to respect copyrights. The Attorney General and other senior administration officials have spoken publicly about the piracy problem and their efforts to fight it in our court system. Schools and universities have begun requiring incoming freshmen to attend copyright education programs before granting them access to the university computer networks.

Yet there seems to be a belief among America's youth, and even some of their parents, that copyright piracy is either an acceptable activity or one that carries low risk of penalties. This needs to change.

Under existing legal authority, the Department of Justice has identified problems that prevent it from pursuing high-volume file sharers. Section 10 of this legislation provides new legal authority to pursue those making available 1,000 or more files. The content

community sees government-run public service campaigns as an important counterpart to their education effort. Section 5 provides for such a government-run campaign.

Parents want to be able to learn of illegal activity by their children before they are sued by a copyright owner or the Department of Justice. Section 3 of this legislation creates a voluntary warning system that will allow parents to receive a warning like the kind that still occurs in small towns today. When a child is doing something wrong, the local cop on the beat tells his or her parents about it. Once alerted to their child's behavior by a friendly warning from the local cop, the parents can put a stop to behavior then and there. I believe that a DOJ warning letter sent to the parents will have the same impact on them and their child's behavior as the policeman's friendly warning.

Finally, H.R. 4077 contains the Family Movie Act that clarifies that existing copyright and trademark law cannot be used to prevent a parent from deciding what their children see in the privacy of their own home. I do not take kindly to those who would presume to tell parents how they decide what is best for their children.

In addition, because of the limited floor time at this time of year, the bill also includes the text of H.R. 1775. This bill designates the oak tree as the national tree.

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

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

I rise in support of H.R. 4077, the Piracy Deterrence and Education Act of 2004, as amended today by the chairman of the Committee on the Judiciary. I urge my colleagues to join me in voting to pass this important and worthy piece of legislation.

Prior to reporting H.R. 4077 by voice vote earlier this month, the Committee on the Judiciary gave this bill great deliberation. This bill and its precursors, H.R. 2517 and H.R. 2752, were the subject of several subcommittee hearings and a subcommittee markup. Through the extensive process given to this bill, the Committee on the Judiciary crafted a measure that makes important contributions and advances in the fight against widespread electronic theft of copyrighted works.

Intellectual property theft has become a rampant and serious threat to the livelihoods of all copyright creators. Digital technologies like the CD burner, the Internet, and the MP3 audio-compression standard, while enhancing the consumer experience, have greatly facilitated copyright theft and led to an explosion in its prevalence. Studies indicate that at any given time more than 850 million copyright-infringing files are being illegally offered for distribution through just one peer-to-peer, file-swapping network. Innumerable Web sites, file transfer protocol servers, Internet affinity groups, and Internet relay chat channels also constitute havens for copyright theft.

Copyright theft injures copyright creators of all types, whether they are songwriters, photojournalists, graphic designers, software engineers, or musicians. On the human level, illegal downloads of songs supplant legal downloads and thus deny songwriters the 8 cents they are due for each legal download. At the macro level, the worldwide software industry alone is estimated to have suffered $29 billion in packaged software loss due to piracy during 2003.

While not a panacea, the changes made by H.R. 4077 will play an important role in addressing the piracy problem. It has become clear that law enforcement authorities need additional resources, statutory authority, and incentives to become productive participants in the antipiracy battle. H.R. 4077 is designed to address these needs.

Specifically, sections 103 and 105 of the bill engage Federal law enforcement agencies in the effort to deter and educate the public about copyright crimes. Section 103 establishes a voluntary program through which the FBI, with cooperation from Internet service providers, can inform Internet users about suspected infringement. Section 105 directs the Department of Justice, in conjunction with the U.S. Copyright Office, to establish an Internet use education program. Section 106 enables criminal prosecution of copyright infringement involving unregistered works.

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This will assist copyright owners, such as photographers, who generally cannot register their copyrighted works, and, as a result, effectively cannot afford to bring civil actions against infringers. By raising the possibility of criminal prosecution, section 106 would create a credible deterrent against the theft of unregistered works.

Section 108 deals with the growing phenomenon of copyright thieves who use portable digital video recorders to record movies off theater screens during public exhibitions. I was recently in Pakistan, and on the hotel TVs they showed ''Catwoman,'' still out in theaters; and as you watched, you could hear people coughing in the background, or indeed standing up to get popcorn. Plainly, not a legitimately copyrighted exhibition.

Organized piracy rings widely distribute copies of these surreptitious recordings, both online and on the street. Section 108 clarifies that it is a felony to surreptitiously record a move in a theater.

Section 110 makes the potential criminal prosecution a more credible deterrent to egregious infringements by otherwise judgment-proof infringers. Section 110 does this by ensuring that criminal copyright prosecutions can be brought against copyright infringers who knowingly distribute massive amounts of copyrighted works or enormously valuable copyrighted works with reckless disregard of the risk of further infringement.

Section 112 of H.R. 4077 did generate some concern during the Committee on the Judiciary consideration because it resolves a legal question at the heart of a pending Federal litigation. While many members of the Committee on the Judiciary believe section 112 inappropriately intervenes in this Federal legislation, support for the balance of H.R. 4077 convinced these members to support the bill as a whole.

Thus, H.R. 4077 is, on balance, a well-crafted bill that will provide valuable and targeted assistance in the battle against copyright piracy.

It is worth noting that while not universally embraced, H.R. 4077 has garnered widespread consensus support. Groups as diverse as the Professional Photographers Association, the Video Software Dealers Association, and needlepoint designers have written in support.

The widespread support is a credit to its sponsors, who worked assiduously during committee consideration to address many of the concerns raised. In fact, H.R. 4077 itself was introduced as a replacement for H.R. 2517 and H.R. 2752, both of which contained several more controversial provisions.

During consideration of this bill, it has been amended to include changes sought by Internet service providers, universities, theater owners, broadcast networks, consumer groups, parallel importers, the Department of Justice, and the Bureau of Immigration and Customs Enforcement. While I would not go so far as to say that H.R. 4077 has the affirmative endorsement of all concerned, I do believe that most of the legitimate concerns have been accommodated.

In summary, this bill as amended today advances important and necessary objectives, and I encourage my colleagues to join me in supporting it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. SMITH), the Chair of the subcommittee and the principal author of the bill.

Mr. SMITH of Texas. Mr. Speaker, first of all I want to thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me time.

Also at the outset I want to acknowledge that this legislation represents a genuine bipartisan and cooperative effort. The gentleman from California (Mr. BERMAN), who I understand is on his way to the House floor from the airport, was a partner in the effort to write this legislation and has contributed many good ideas to the final product. So I want to acknowledge his good work as well as his input and say that I appreciate his support.

Mr. Speaker, piracy of intellectual property over the Internet, especially on peer-to-peer networks, has reached alarming levels. Millions of pirated movies, music, software, game and other copyrighted files are now available for free download from suspect

peer-to-peer networks. This piracy harms everyone, from those looking for legitimate sources of content, to those who create it.

I have heard from songwriters, video store owners, software publishers, and game developers who feel the impact of such piracy every day. They have urged Congress to help them educate the public about the harms of piracy while also warning and penalizing those who continue to steal from others.

Peer-to-peer technology is an essential development of our Nation's high-tech economy. However, like all new technologies, peer-to-peer technologies have been abused by those who want to commit crimes. Our Nation's laws need to be updated to reflect the harms that can be caused by this new technology, without penalizing the technology itself.

This legislation addresses P2P piracy by better educating the public about copyright law, authorizing the creation of a system to warn online users of potential infringement, penalizing those who bring camcorders into movie theaters for the purpose of making pirated DVDs, assisting Federal law enforcement authorities in their efforts to investigate and prosecute intellectual property crimes, and designating designated intellectual crime agents within DOJ Computer Hacking and Intellectual Property Sections to prosecute cybercrimes. The Internet has revolutionized how Americans locate information, shop and communicate. We must not let new Internet technologies become a haven for criminals.

Mr. Speaker, also included in H.R. 4077 is an updated version of H.R. 4586, the Family Movie Act of 2004, which the committee reported out in July. Parents should have the right to watch any movie they want and to skip over or mute any content they find objectionable. This legislation ensures that parents have the final say in what their children watch in the privacy of their own home and that parents can act in the best interests of their children. Parents need all the help they can get in protecting their children from the sex, violence, and profanity found in many movies; and parents should be able to determine what their children see on the screen. Technology that helps parents accomplish this should be applauded, and H.R. 4077 ensures that this technology will not face continued legal challenges.

Mr. Speaker, I urge my colleagues to pass this important piece of legislation.

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

Mr. Speaker, I wanted to join my colleague in congratulating my colleague, the gentleman from California (Mr. BERMAN), who I know wanted to be here to manage the floor time on our side of the aisle, for his great contributions to this legislation and protection of intellectual property.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. SMITH), for his extraordinary job during these 2 years in advancing the cause of protecting, really, the one industry that has a positive balance of trade with every other country in the world, and that is the intellectual property industry.

So I want to thank our subcommittee chairman and thank our full committee chairman for their work on this bill today and more generally on the issue of protecting intellectual property theft.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the bill, H.R. 4077, the Piracy Deterrence and Education Act of 2004; however, I join my colleagues in the Committee on the Judiciary in raising serious concerns about Section 12 as reported. Section 12 adds to H.R. 4077 the text of H.R. 4586, the "Family Movie Act of 2004." With the purported goal of sanitizing undesired content in motion pictures, section 12 immunizes from copyright and trademark liability any for-profit companies that develop movie-editing software to make content imperceptible without permission from the movies' creators. Section 12 favors one party in a private lawsuit, interferes with marketplace negotiations, fails to achieve its goal, is unnecessary and overbroad, may increase the level of undesired content, and impinges on artistic freedom and rights.

As Chair of the Congressional Children's Caucus, I appreciate the fact that one of the drafter's intentions was to protect children. Purportedly, parts of Section 12 are about whether children should be forced to watch undesired content. However, the issue in this debate is about who should make editorial decisions about what movie content children should see: parents or a for-profit company.

Supporters of Section 12 believe companies should be allowed to do the editing for profit, and without permission of film creators, while opponents believe parents are the best qualified to know what their children should not see. The legislation would accomplish little beyond inflaming the debate over indecent content in popular media and interfering with marketplace solutions to parental concerns.

Regardless of the outcome of the pending litigation, this legislation should not be brought before the House because it is unnecessary. Its supposed rationale is to make it easier for parents and children to avoid watching motion pictures with undesired content, but parents and children already have such options.

At the outset, there is an obvious marketplace solution to undesired content in that consumers can merely elect not to view it. As the Register of Copyrights testified at a hearing on the bill underlying the amendment:

> I cannot accept the proposition that not to permit parents to use such products means that they are somehow forced to expose their children (or themselves) to unwanted depictions of violence, sex and profanity. There is an obvious choice—one which any parent can and should make: don't let your children watch a movie unless you approve of the content of the entire movie.

The motion picture industry has even enhanced the ability of consumers to exercise this choice. For decades and on a voluntary basis, it has implemented a rating system for its products that indicates the level of sexual or violent content and the target audience age. Each and every major motion picture released in theaters or on DVD or VHS bears such a rating. Such ratings effectively enable parents to steer their children away from movies they consider inappropriate.

Mr. Speaker, for the reasons stated above, I support this legislation, but reserve my comments regarding Section 12 as issues that should be addressed alternatively.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of H.R. 4077 today because I feel it is important for Congress to keep pace with those who use new technology to defraud consumers.

As a co-sponsor with our colleague HEATHER WILSON of the Anti-SPAM bill, I'd like to also thank my colleagues on the Energy and Commerce and Judiciary Committees for taking action on this legislation.

We live in an age when technological breakthroughs bring us better, more efficient lives. However, these breakthroughs also entice people to take advantage of others for personal and financial gain.

Congress needs to address these types of issues quickly because as we all know, the fast pace of technological growth will always bring with it new issues for Congress.

During our experience with the Anti-SPAM bill, we all came to an understanding that technology itself is not the problem—it is the way some entities use technology that is harmful to consumers.

This legislation balances consumer protections against Spyware with the need to allow industry to use software technology to provide useful products and services to consumers.

I'm glad to stand with colleagues from both sides of the isle on this issue and rise to support this legislation. This bill will protect us from spy ware and get our law enforcement agencies involved in helping make the internet a more secure place to conduct business, communicate and learn.

Mr. CONYERS. Mr. Speaker, I rise in support of the bill but with strong opposition to section 112. While the bill contains numerous anti-copyright piracy provisions that I helped draft, I oppose section 112 because it is an anti-copyright, special interest provision that will interfere in a pending lawsuit.

The content industries provide this country's number one export; in fact, copyrighted content provides a positive trade balance of approximately $89 billion. Clearly, our content is a valuable resource that deserves protection.

Unfortunately, the same technologies that have enhanced our lives and globalized trade have made it possible to obtain digital content for free; the same technology that enhanced the lives of so many is harming the lives of people—the artists, musicians, writers, etc.—whose work we value so much.

While there are laws on the books that protect copyrighted content from theft, they do not go quite far enough. New file swapping programs and sites appear every day on the Internet, each one better than its predecessor. These sites do not develop their own content but rely upon the popularity of content created by others and allow that content to be distributed to millions with the click of a mouse. These sites also create security and privacy risks, in that they open up the entire hard drives of average consumers for the world to see, financial and personal information included.

I was a cosponsor of Chairman SMITH's bill, H.R. 2517, but felt that we could do even

more to thwart piracy. That is why Ranking Member BERMAN and I introduced H.R. 2752, which provided for increased enforcement of the piracy laws. For the past several months, we have been working in bipartisan fashion to craft language that is non-controversial and workable.

In that regard, I am pleased that the compromise bill incorporates numerous provisions from the original Conyers-Berman bill. H.R. 4077 clarifies that it is a federal offense to camcord a movie in a theater. This is a major means by which movies end up on the Internet for free. I think we can all agree there is little legitimate reason for engaging in this conduct and need to send a clear message that we will not tolerate this theft. It also ensures that theaters owners are exempt from liability if they attempt to enforce this prohibition.

The bill contains a sense of the Congress recognizing the potential dangers of misused peer-to-peer services (such as spreading worms, viruses, making personal computer files available to the public).

Third, the bill provides additional tools to prosecute those who upload copyrighted content to the Internet unlawfully, and I was pleased the content and Internet industries were able to compromise on this provision. It also provides an authorization of $15 million for the Justice Department's piracy fighting efforts, an increase over the traditional $10 million.

Finally, the legislation includes language similar to a provision in an earlier bill of mine, H.R. 4643 from the 107th Congress, saying the distribution of unpublished or pre-release works can constitute infringement. This is important for industries whose content ends up on the Internet before it is even released to the public.

Unfortunately, I am disappointed that our year-long bipartisan effort has been tainted by the addition of section 112, which is identical to H.R. 4586. H.R. 4586, the "Family Movie Act of 2004," is an anti-content creator proposal that interferes in a private lawsuit. It puts Congress on one side of a private business dispute that is properly left to the litigants and the court.

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

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

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4077, 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.

GENERAL LEAVE

Mr. RADANOVICH. 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. 752, H.R. 3954, H.R. 4066, H.R. 4469, H.R. 4579, H.R. 4596, H.R. 4683, H.R. 4808, S. 643, S. 1687, S. 2052, H.R. 3247, H.R. 4617, H.R. 4827, H.R. 4838, S. 1537, S. 1778, S. 2180, H.R. 3210, H.R. 3597, H.R. 4606, H.R. 5009, H.R. 5016, S. 2508, H.J. Res. 102, H. Res. 737, H.R. 2941, and H.R. 3479.

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

There was no objection.

EXPRESSING CONTINUED SUPPORT FOR CONSTRUCTION OF VICTIMS OF COMMUNISM MEMORIAL

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 752) expressing continued support for the construction of the Victims of Communism Memorial.

The Clerk read as follows:

H. RES. 752

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas in 2004, a location for the Victims of Communism Memorial is to be selected and construction of the Memorial in the District of Columbia is scheduled to begin;

Whereas construction of the Memorial is supported by the Baltic-American community and other ethnic communities in the United States; and

Whereas it is necessary for the people of the United States to be reminded of the importance of the Memorial and continue to support its progression: Now, therefore, be it

Resolved, That the House of Representatives expresses continued support for the construction of the Victims of Communism Memorial.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, House Resolution 752 introduced by the gentleman from Illinois (Mr. SHIMKUS) would express the continued support of the House of Representatives for the construction for the Victims of Communism Memorial in the Nation's capital. I urge adoption of the resolution.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. SOUDER. Mr. Speaker, today I rise in support of H. Res. 752, expressing continued support for the construction of the Victims of Communism Memorial.

In 1993, recognizing "the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust," Congress authorized the construction of the Victims of Communism Memorial in our Nation's capital, "so that never again will nations and peoples allow so evil a tyranny to terrorize the world."

Today, H. Res. 752 reaffirms the importance of the Victims of Communism Memorial and reminds our nation that the men and women whose sacrifice the memorial honors must not be forgotten.

Over the past year, significant strides have been made toward the realization of the memorial, including the consideration of a potential location. Several months ago, the National Park Service recommended a site for the Victims of Communism Memorial at Maryland and Constitution Avenues, NE. In July, I and 26 other Members of Congress wrote to the chairman of the National Capital Memorial Commission, encouraging the commission to approve this site for the memorial. Later that month, the commission met to consider this location for the memorial. Citizens representing the Baltic-American, Vietnamese-American and Polish-American communities expressed their strong support for the memorial. They spoke of its importance both for their own communities in commemorating those who have suffered under communist oppression and for our whole nation, which has shared in the struggle against communism.

That day, the commission unanimously approved the site for the Victims of Communism Memorial.

The Victims of Communism Memorial continues to make its way through the approved process for its site and design. Now that the National Capital Memorial Commission has approved a location, the site must also be approved by Neighborhood Advisory Commission 6–C for Capitol Hill, the Commission on Fine Arts, and the National Capital Planning Commission. The Memorial must then go through the same procedure for design approval.

These are important and exciting steps on the way to establishing the memorial to honor over 100 million victims of communism. It is vital that we as Americans remember the sacrifice so many brave men and women have made in the hope of achieving freedom from communist tyranny. Our Nation has long struggled along with them as the leader in fighting communism. This history is also very personal for the estimated 26 million Americans who trace their heritage to former communist countries. When the Victims of Communism Memorial is constructed, it will provide our Nation with a place to commemorate the lives and heroism of those the memorial honors, and to remember the terrible cost of communism. This is a message that neither we nor future generations of Americans can afford to forget.

I urge my colleagues to support the efforts to establish the Victims of Communism Memorial and H. Res. 752.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and agree to the resolution, H. Res. 752.

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

A motion to reconsider was laid on the table.

RANCHO EL CAJON BOUNDARY RECONCILIATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3954) to authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an erroneous survey conducted by a Government contractor in 1881 that resulted in overlapping boundaries for certain lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3954

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 ''Rancho El Cajon Boundary Reconciliation Act''.

SEC. 2. RESOLUTION OF BOUNDARY DISCREPANCIES, SAN DIEGO COUNTY, CALIFORNIA.

(a) RESOLUTION OF BOUNDARY DISCREPANCIES.—The Secretary of the Interior shall provide compensation to any landowner whose title to land in lots 1 and 2 of section 9, township 15 south, range 1 east, San Bernardino Meridian, in San Diego County, California, is based on an erroneous survey conducted by a Government contractor in 1881 and is rendered void because that title is inferior to the title to the same land established by a survey of the Rancho El Cajon conducted in 1872 and approved by the Commissioner of the General Land Office in 1876.

(b) FORMS OF COMPENSATION.—Compensation under subsection (a) shall be mutually agreed upon by the Secretary and the landowner and shall consist of—

(1) public lands in San Diego or Imperial Counties, California, selected jointly by the Secretary and the landowner and conveyed by the Secretary to the landowner;

(2) a cash payment to the landowner; or

(3) a combination of a conveyance under paragraph (1) and a cash payment under paragraph (2).

(c) EQUAL VALUE.—Compensation provided under subsection (a) for a parcel of land whose title was rendered void, as described in such subsection, may not exceed the fair market value of the land, as determined by an appraisal satisfactory to the Secretary and the landowner.

(d) SOURCE OF FUNDS.—The Secretary may make payments under subsection (a) using funds available to the Secretary to equalize land exchanges under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(e) PUBLIC LANDS DEFINED.—In this section, the term ''public lands'' has the meaning given the term in section 103(e) of the Federal Land Policy and Management Act of 1976 (7 U.S.C. 1702(e)).

SEC. 3. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

(a) REVOCATION.—Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

(b) RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.—The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 3954, introduced by the gentleman from California (Mr. HUNTER) and amended by the Committee on Resources, would authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an 1881 erroneous survey conducted by a government contractor. The survey resulted in overlapping boundaries for certain lands.

In addition, section 3 of the bill incorporates the text of H.R. 417, which revokes a portion of a public land order affecting the Cibola National Wildlife Refuge. H.R. 417 passed the House unanimously on March 19, 2003. I urge adoption of the bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. HUNTER. Mr. Speaker, when Fred Gruner returned from World War II he did what we encourage all of our young veterans to do, invested his money and planned for his family's future. Mr. Gruner chose to build equity by purchasing land in San Diego County. Unfortunately, due to an erroneous Federal Government survey that resulted in overlapping boundaries for certain lands, Mr. Gruner is now told that he does not, in fact, own the land that he paid for and on which he has been paying taxes for over 40 years. Although the Department of the Interior recognizes the mistake, they have communicated to me that they are not authorized to provide the necessary compensation for Mr. Gruner. H.R. 3954 simply allows the Secretary of the Interior to provide compensation through conveyance of lands or cash payment.

The error dates back to an 1881 survey which failed to correctly locate the El Cajon northern boundary thereby creating a 1,100 foot overlap of land, essentially creating land on paper that did not exist. Nevertheless, titles were sold or passed on and taxes were assessed as if it did. Though he purchased his property in good faith in 1962, Mr. Gruner eventually learned of the overlap. When a recent survey was completed by the Department of the Interior in response to Mr. Gruner's concerns, the full scope of his problem was discovered. According to the survey, lots one and two of Section nine fell into the overlap and as a result, the 23 acres no longer belong to him.

Part of the mission of the Federal Government agencies is to set standards and uphold them where the private sector is not able. This is one of those situations. The main mission of the General Land Office (the Interior agency that completed the 1881 survey) was the survey and sale of public lands. When a well-intentioned citizen that has served his country seeks to purchase a piece of land, he ought to be able to trust that the existing Federal Government survey of the land is reliable. Mr. Gruner worked his entire life to build this nest-egg. He has spent over 20 years fighting to protect it. This is his last recourse. Please join me in doing what is right. I urge my colleagues to join with me in supporting H.R. 3954.

I would like to thank Chairman POMBO and Subcommittee Chairman RADANOVICH for their leadership on this issue and their dedication to righting this wrong.

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

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3954, 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.

CHICKASAW NATIONAL RECREATION AREA LAND EXCHANGE ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4066) to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4066

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

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Chickasaw National Recreation Area Land Exchange Act of 2004''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) By provision 64 of the agreement between the United States and the Choctaws and Chickasaws dated March 21, 1902 (32 Stat. 641, 655–56), approved July 1, 1902, 640 acres of property were ceded to the United States for the purpose of creating Sulphur Springs Reservation, later known as Platt National Park, to protect water and other resources and provide public access.

(2) In 1976, Platt National Park, the Arbuckle Recreation Area, and additional lands were combined to create Chickasaw National Recreation Area to protect and expand water and other resources as well as to memorialize the history and culture of the Chickasaw Nation.

(3) More recently, the Chickasaw Nation has expressed interest in establishing a cultural center inside or adjacent to the park.

(4) The Chickasaw National Recreation Area's Final Amendment to the General Management Plan (1994) found that the best location for a proposed Chickasaw Nation Cultural Center is within the Recreation Area's existing boundary

and that the selected cultural center site should be conveyed to the Chickasaw Nation in exchange for land of equal value.

(5) The land selected to be conveyed to the Chickasaw Nation holds significant historical and cultural connections to the people of the Chickasaw Nation.

(6) The City of Sulphur, Oklahoma, is a key partner in this land exchange through its donation of land to the Chickasaw Nation for the purpose of exchange with the United States.

(7) The City of Sulphur, Oklahoma, has conveyed fee simple title to the non-Federal land described as Tract 102–26 to the Chickasaw Nation by Warranty Deed.

(8) The National Park Service, the Chickasaw Nation, and the City of Sulphur, Oklahoma, have signed a preliminary agreement to effect a land exchange for the purpose of the construction of a cultural center.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the land conveyance in accordance with the terms and conditions of this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) FEDERAL LAND.—The term ''Federal land'' means the Chickasaw National Recreational Area lands and interests therein, identified as Tract 102–25 on the Map.

(2) NON-FEDERAL LAND.—The term ''non-Federal land'' means the lands and interests therein, formerly owned by the City of Sulphur, Oklahoma, and currently owned by the Chickasaw Nation, located adjacent to the existing boundary of Chickasaw National Recreation Area and identified as Tract 102–26 on the Map.

(3) MAP.—The term ''Map'' means the map entitled ''Proposed Land Exchange and Boundary Revision, Chickasaw National Recreation Area'', dated September 8, 2003, and numbered 107/800035a.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. CHICKASAW NATIONAL RECREATION AREA LAND CONVEYANCE.

(a) LAND CONVEYANCE.—Not later then 6 months after the Chickasaw Nation conveys all right, title, and interest in and to the non-Federal land to the United States, the Secretary shall convey all right, title, and interest in and to the Federal land to the Chickasaw Nation.

(b) VALUATION OF LAND TO BE CONVEYED.—The fair market values of the Federal land and non-Federal land shall be determined by an appraisal acceptable to the Secretary and the Chickasaw Nation. The appraisal shall conform with the Federal appraisal standards, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference, 1992, and any amendments to these standards.

(c) EQUALIZATION OF VALUES.—If the fair market values of the Federal land and non-Federal land are not equal, the values may be equalized by the payment of a cash equalization payment by the Secretary or the Chickasaw Nation, as appropriate.

(d) CONDITIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a), the conveyance of the non-Federal land authorized under subsection (a) shall not take place until the completion of all items included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, except as provided in paragraph (2).

(2) EXCEPTION.—The item included in the Preliminary Exchange Agreement among the City of Sulphur, the Chickasaw Nation, and the National Park Service, executed on July 16, 2002, providing for the Federal land to be taken into trust for the benefit of the Chickasaw Nation shall not apply.

(e) ADMINISTRATION OF ACQUIRED LAND.—Upon completion of the land exchange authorized under subsection (a), the Secretary—

(1) shall revise the boundary of Chickasaw National Recreation Area to reflect that exchange; and

(2) shall administer the land acquired by the United States in accordance with applicable laws and regulations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

Mr. RADANOVICH. Mr. Speaker, I yield time as he may consume to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. Mr. Speaker, I rise today in support of H.R. 4066, the Chickasaw National Recreation Area Land Exchange Act of 2004. This legislation finalizes a land exchange agreement that will allow the Chickasaw Nation to develop a cultural center which celebrates their long history and many contributions to our society.

Mr. Speaker, this legislation will benefit the city of Sulphur, Murray County, the Chickasaw Nation and all of South Central Oklahoma. The cultural center will bring additional tourism to the area, create new jobs and expand educational opportunities for citizens all over the surrounding area.

□ 1500

It is a model of cooperation between the Federal Government, local government and tribal government.

I want to extend my gratitude to the gentleman from California (Chairman POMBO), the gentleman from West Virginia (Ranking Member RAHALL), the gentleman from California (Chairman RADANOVICH), the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN), as well as to the staff of the Committee on Resources, for helping the people of the fourth district of Oklahoma and the members of the Chickasaw Nation across our country achieve the goal of creating this cultural center and for guiding this bill through the legislative process.

Mr. Speaker, I urge Members to support the passage of this bill, H.R. 4066.

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

Mr. Speaker, we have no objection to the consideration of H.R. 4066, the Chickasaw National Recreation Area Land Exchange Act of 2004.

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

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4066, 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.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4469) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The Clerk read as follows:

H.R. 4469

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 ''Angel Island Immigration Station Restoration and Preservation Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark.

(2) Between 1910 and 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributes greatly to our understanding of our Nation's rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the unique voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 schoolchildren, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations also have the benefit of experiencing and appreciating this great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $15,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation.

(b) PRIORITY.—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station Hospital on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 4469, introduced by the gentlewoman from California (Ms. WOOLSEY) would authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The restoration of this battered structure known as the ''Ellis Island of the West'' is important to our Nation's history as it was the first place that more than 1 million immigrants entered the United States between 1910 and 1940, many of whom became U.S. citizens.

Mr. Speaker, I urge adoption of the bill, and I reserve the balance of my time.

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

Mr. Speaker, I would like to commend the sponsor of this bill, the gentlewoman from California (Ms. WOOLSEY) for bringing forth this most important measure.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I want to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL), the gentlewoman from Guam (Ranking Member BORDALLO) and the chairman of the subcommittee, the gentleman from California (Chairman RADANOVICH) and the House leadership for allowing us to consider this piece of legislation. This is legislation that is very important to my district and to the San Francisco Bay Area.

As my colleagues may know, I have worked for the past 2 years with the Angel Island Immigration Station Foundation and the gentlewoman from California (Leader PELOSI) in an effort to preserve the historic Angel Island Immigration Station located just east of Sausalito in the San Francisco Bay.

This landmark is a high priority because of what it means to Asian Americans. Many of my colleagues are familiar with the symbolism of Ellis Island to European Americans. Well, the same feelings of history and pride can be equated to the Americans of Asian heritage on the west coast, because Angel Island was the first American soil most Asian immigrants stepped on.

With over 1 million people being processed through the site, millions of Asian descendants nationwide are eager to see their roots in this country honored in the same way that we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignities suffered by the early Chinese as they were being processed into America. If these walls crumble, we would lose this one-of-a-kind documentation forever.

Because of its rich history, the site is currently used as a teaching tool for students and a museum for visitors. Hundreds of schoolchildren and researchers make the trip out to the site each year by ferry, by the way, to learn about its rich history.

Mr. Speaker, I have worked with the Foundation to find additional sources of funding for the restoration project to ensure future generations can learn from this site. The current estimate to preserve it is over $30 million. With $16 million already raised through grants, State funding and private donations, $15 million is still needed. With no more grants to pursue and the State of California contributing close to half of the funding, it is important that we allow the Federal Government to become a part of this preservation effort, and that is what we are doing today, and I thank my colleagues for that.

The Angel Island Immigration Station Restoration and Preservation Act, with over 45 bipartisan cosponsors, will simply allow the Angel Island Immigration Station to retain its status as a State-owned facility, while allowing the preservation project to receive Federal dollars. Passing this legislation will put us one step closer to protecting this site forever.

Among the strongest supporters in this effort are the gentlewoman from California (Minority Leader PELOSI) and the gentleman from Indiana (Mr. SOUDER). Also, I would like to acknowledge the tireless work of Katherine Toy and Irene Bueno on behalf of the Angel Island Immigration Station Foundation. All of their hard work on this bill has been critical to moving it forward. In addition, I would like to thank Senator FEINSTEIN and Senator BOXER for introducing identical legislation in the other body.

Mr. Speaker, I thank my colleagues again for allowing us to debate this important bill. The supporters are dedicated to this project and will continue to work passionately to help others learn and understand the story of the Angel Island Immigration Station. We urge our colleagues to join us and vote yes on H.R. 4469.

Mr. HONDA. Mr. Speaker, I rise today to support H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

I would like to recognize my colleagues Representative LYNN WOOSLEY from California for her steadfast leadership in ensuring Angel Island Immigration Station is preserved and restored.

As Chair of the Congressional Asian Pacific American Caucus, CAPAC, I support a Federal authorization of $15 million for the preservation and restoration of Angel Island, where people from China, Japan, Russia, India, Korea, Australia, and the Philippines entered the United States to start a new life.

Mr. Speaker, Angel Island Immigration Station is appropriately known as the ''Ellis Island of the West.'' Located in the San Francisco Bay, Angel Island served as a processing and detainment center for 1 million immigrants between 1910 and 1940. Of those 1 million people, 175,000 were Chinese immigrants and 150,000 were Japanese immigrants.

For the 30 years that Angel Island was in existence, detainees experienced overcrowded facilities, humiliating medical examinations, intense interrogations, and countless days—even years—waiting until approval of their applications of deportation. Although conditions could be deplorable, Angel Island was an entry point to a better future for so many immigrants.

Angel Island Immigration Station was closed in 1940 when a fire destroyed the administration building. In 1963, California State Parks assumed the role of stewardship of the site when Angel Island became a State park.

In the 1970s, the site was set for demolition until a park ranger discovered etched writings on the walls. Etched by detainees, the writings and drawings on the wall reflect their hardships and hopes of detainees during the uncertain period in which they awaited decisions on their immigration applications. The cultural and historical value of these etchings sparked efforts to save this site, and in 1997, Angel Island Immigration Station became a National Historic Landmark.

More than 50,000 people continue to visit Angel Island Immigration Station yearly, but sadly, the history of Angel Island is often left out of classroom lectures. With greater Federal support, however, we can restore the island's historic buildings, preserve irreplaceable immigration records, and keep alive the stories and memories of those who were detained on the island.

While preserving the Angel Island Immigration Station is important to Asian Americans, it should be a priority for all Americans. Just as Ellis Island is a critical part of our Nation's history, Angel Island offers American's a richer and more comprehensive understanding of our history and the diversity we celebrate in this Nation.

Mr. Speaker, I wholeheartedly support H.R. 4469 and its authorization of $15 million to restore and preserve historic buildings at Angel Island Immigration Station. I urge my colleagues to vote for this important piece of legislation.

Ms. BORDALLO. Mr. Speaker, I rise in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act and I want to thank Congresswoman WOOLSEY for spearheading this effort to preserve this historic landmark.

The Angel Island Immigration Station is important to our country's immigration history. Considered the ''Ellis Island of the West'' it was originally built as a detention center to enforce the Chinese Exclusion Act of 1882, which limited immigration on the basis of nationality and race. Immigrants from China and other parts of Asia who were sent to the station for processing were treated far differently from immigrants arriving at Ellis Island. Often the Asian immigrants, particularly the Chinese, were subjected to extended periods of detention and isolation and which often resulted in denial of entry. During their detention, many would carve poems and drawings into the walls of their barracks, giving voice to their anger and frustration and providing first hand accounts of Asian immigrant struggles to reach America. It is these voices that H.R. 4469 seeks to preserve, and in doing so, honor their painful journey.

Mr. Speaker, each May we honor the contributions of Asian Americans to our Nation. We have come a long way since Angel Island, but we cannot forget what it took to bring us to this point. I encourage my colleagues to support H.R. 4469 to ensure that the experiences of these immigrants will be remembered.

Mr. SOUDER. Mr. Speaker, I rise in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

Historic preservation is the key to remembering our past. Without key places and artifacts from our history, it would be impossible to tell future generations of Americans how, when and where our country came to be what it is. Whenever a place or object is lost, a piece of history is gone forever. It is our duty to ensure that history is preserved.

The Angel Island Immigration Station Restoration and Preservation Act aims to preserve part of our history. Known as the Ellis Island of the West, Angel Island was the primary entry point for hundreds of thousands of immigrants from the Pacific Rim, including Australia and New Zealand, Canada, Mexico, Central and South America, Russia, and in particular Asia. During Angel Island's years of operation, 1910–1940, an estimated 175,0000 Chinese immigrants were processed through Angel Island.

In 1940, Angel Island Immigration Station closed after a fire destroyed the Administration Building. Following the Army's departure from Angel Island, the structures fell into disrepair. Many were removed by the Army Corps of Engineers and California State Parks. Of the original Immigration Station structures, only the Detention Barracks, Hospital, Power House, Pump House and Mule Barn remain. Today, these structures are in various states of disrepair; hence the need for this legislation.

Without H.R. 4469, the structures on Angel Island will fall further into decay. Many of the buildings are crumbling and leak; consequently, many poems written by the Chinese immigrants detained at Angel Island are in danger of being destroyed. State, private, and local entities have already contributed mightily to this project; sadly, they have not been able to complete the project. This bill will authorize $15 million in funding so that this unique aspect of our history can be preserved for future generations. Compared to the $156 million spent to restore Ellis Island, this restoration project is a bargain and of no less significance.

Millions of people journey to Ellis Island every year in order to see where their ancestors came ashore. This bill would allow descendants of Angel Island arrivals the same opportunity to visit the place where their ancestors' American Dreams started.

Although the status of Angel Island as part of the California State Parks system sets it apart from many other historic sites that receive Federal funding, the importance of the site and its contribution to the United States makes its official designation irrelevant. Our Nation's history must be preserved regardless of official status.

I urge my colleagues to support the passage of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act. Keeping our immigration heritage in good repair is essential if the United States is to maintain its unique status as a beacon of democracy and opportunity.

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

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4469.

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

A motion to reconsider was laid on the table.

TRUMAN FARM HOME EXPANSION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4579) to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

The Clerk read as follows:

H.R. 4579

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

SECTION 1. SHORT TITLE.

This section may be cited as the ''Truman Farm Home Expansion Act''.

SEC. 2. HARRY S TRUMAN NATIONAL HISTORIC SITE BOUNDARY MODIFICATION.

The first section of Public Law 98–32 (16 U.S.C. 461 note) is amended—

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

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

''(d) ACQUISITION OF ADDITIONAL LAND.—

''(1) IN GENERAL.—The Secretary may acquire, by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or any other means, the land described in paragraph (2) for inclusion in the Harry S Truman National Historic Site.

''(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of the approximately 5 acres of land (including the structure located south of the Truman Farm Home site), as generally depicted on the map entitled 'Harry S Truman National Historic Site Proposed Boundary', numbered 492/80,027, and dated April 17, 2003.

''(3) BOUNDARY MODIFICATION.—On acquisition of the land under this subsection, the Secretary shall modify the boundary of the Harry S Truman National Historic Site to reflect the acquisition of the land.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 4579, introduced by the gentlewoman from Missouri (Ms. MCCARTHY), would authorize a modification of the boundary of the Harry S Truman National Historic Site, which includes the Truman Home in Independence, Missouri, and the Truman Farm Home in Grandview, Missouri. The Harry S Truman National Historic Site was established on May 3, 1983. The site was expanded in 1993 when the Truman Farm Home in Grandview, Missouri, was added.

Mr. Speaker, H.R. 4579 would add approximately 5 acres that abuts the site on its south side. The additional acreage would preserve the historic integrity of the site and prevent the growing need for development of nearby lands from encroaching into the immediate Truman Farm Home.

Mr. Speaker, I urge adoption of the legislation, and I reserve the balance of my time.

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

Mr. Speaker, I would like to commend the sponsor of this bill, the gentlewoman from Missouri (Ms. MCCARTHY) for bringing forth this very important measure.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in support of passage of H.R. 4579, the Truman Farm Home Expansion Act. My Missouri colleagues on both sides of the aisle join me in urging support of this bill.

Harry Truman is one of our Nation's greatest presidents. President Truman was instrumental in the signing of the United Nations charter, negotiating the creation of a NATO military alliance, carrying out the Marshall Plan to rebuild a war-torn Europe, conducting a massive airlift to aid the western sectors of Berlin following the Russian blockade in 1948, and he laid the foundation for an unprecedented level of American prosperity. During Truman's tenure, the United States was widely respected as a beacon of freedom and a nation willing to work with anyone across the globe to promote peaceful democratic governments.

One of the many ways we honor his life is to preserve his farm that instilled in him the values of hard work, commitment and teamwork that guided him throughout his life and inspired others who followed.

The farm has a very rich history. The Truman family purchased the land in 1840, and a young Harry Truman farmed the land from 1906 until 1917 when he left to fight as an artillery captain in the First World War. While working the farm, Truman courted the love of his life, Bess Wallace, who later became Mrs. Truman. His early experience as a farmer formed the core of his values. His mother once said that life on the farm is where Harry got his famous common sense, and Truman himself said that the best 10 years of his life were spent trying to run the 600-acre farm successfully.

This past July, the House Committee on Resources heard from Grandview Mayor Harry Wilson that historians believe the years Truman spent living

and working on his farm were the most formative, developing the character of the future President. Truman himself stated, ''Riding one of those plows all day, day after day, gives one time to think. I have settled all of the ill of mankind in one way or another while riding along, seeing that each animal pulled his part of the load.'' The late publisher of the Jackson County Advocate, Jim Turnbaugh, recounted for readers a story when, after leaving the farm, Truman attended a function where he was asked to sign the guest register. Then former President Truman, he signed in as ''Harry S Truman, retired farmer.''

This legislation would preserve the historical integrity of Harry Truman's home by adding 5 acres to the current site for educational purposes. The farm originally sat on 600 acres, but because of commercial development, the farm now encompasses only 5.2 acres. The Park Service has secured the support of two local landowners who own 5 acres bordering the farm and are interested in selling. The Park Service needs authorization from Congress to acquire the land and protect the ''viewshed'' and the character of the farm as Truman knew it.

The National Park Service and the Office of Management and Budget support this proposal. In fact, it is the only presidential-related bill endorsed by the National Park Service this session.

The Truman Farm Home and Expansion Act will help America preserve and enhance the legacy of one of our favorite sons and most revered leaders. I ask the House to support this legislation.

I would like to thank the Committee on Resources chairman, the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Ranking Member RAHALL), the chairman of the Subcommittee on National Parks, Recreation, and Public Lands, the gentleman from California (Chairman RADANOVICH), the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN) and the gentlewoman from Guam (Ms. BORDALLO) for their support.

Mr. Speaker, I rise in support of H.R. 4579, the Truman Farm Home Expansion Act. My Missouri colleagues on both sides of the aisle join me in urging passage of this bill.

Harry S Truman is one of our Nation's greatest Presidents. As President, Truman pledged to secure the free world from the spread of communism. President Truman was instrumental in the signing of the United Nations charter, negotiated the creation of the NATO military alliance, carried out the Marshall Plan to rebuild a war torn Europe, conducted a massive airlift to aid the western sectors of Berlin following the Russian blockade in 1948, and laid the foundation for an unprecedented level of American prosperity. During Truman's tenure the United States was widely respected as a beacon for freedom and a Nation willing to work with anyone across the globe to promote peaceful democratic governments. One of the many ways we honor his life is to preserve the farm that instilled in him the values of hard work, commitment, and teamwork that guided him throughout his life, and inspired others who followed.

The farm has a very rich history. The Truman family purchased the land in 1840, and a young Harry Truman farmed the land from 1906 until 1917, when he left to fight as an artillery captain in the First World War. While working the farm, Truman courted the love of his life, Bess Wallace, who later became Mrs. Truman. His early experiences as a farmer formed the core of his values. His mother once said that life on the farm is where Harry got his famous common sense and Truman himself said that the best 10 years of his life were spent trying to run the 600-ace farm successfully.

This past July, the House Resource Committee heard from Grandview Mayor, Harry Wilson, that historians believe the years Truman spent living and working on his farm were the most formative in developing the character of the future President. Truman himself stated: "Riding one of these plows all day, day after day, gives one time to think. I've settled all the ills of mankind in one way and another while riding along seeing that each animal pulled his part of the load." The late publisher of the Jackson County Advocate, James D. Turnbaugh Jr., recounted for readers the story of former President Truman attending a function where he was asked to sign a guest register. He signed in as "Harry S Truman, retired farmer."

Truman's mother, Martha Truman, and sister, Mary Jones Truman, lived at the farm until 1940. The farm home remained in the Truman family until 1980. The speculation that the Truman's would be forced to sell the remaining house and five acres to commercial interests compelled a group of concerned citizens to form the Harry S Truman Farm Foundation in an effort to save the farm. Their efforts proved successful and Jackson County assumed control of the farm. In 1994, the county transferred the farm to the US Park Service.

H.R. 4579 will preserve the historical integrity of Harry Truman's home by adding five acres to the current site for educational purposes. Today the farm only encompasses 5.2 acres due to commercial development. The Park Service has secured the support of local landowners who are interested in selling the five acres bordering the farm. The Park Service needs authorization from Congress to acquire the land, and protect the "viewshed" and the character of the farm as Truman knew it.

H.R. 4579 authorizes the Secretary of the Interior to expand the park boundary to appropriately preserve the site. It does not specifically request an additional appropriation of funds to acquire the land, however it does give the Secretary the flexibility to use donated and private funds to meet this objective. The National Park Service and the Office of Management and Budget support this proposal. In fact, it is the only Presidential related bill endorsed by the National Park Service this session.

President Truman remains a hero and an inspiration for all Americans and visitors from around the world. The Truman farm offers a deeply personal connection to his legacy. Currently, Park Service employees are housed in a screened porch on the side of the house because there is no permanent area for them to be located. On average, over 5,000 vehicles drive through the farm annually and the National Park Service estimates that visitation levels will increase with the development of a new visitor center. A visitor center could be constructed with restrooms, a parking lot, drinking fountains, and facilities that the farm currently lacks. School groups, bus tours, and families from around the country and world would benefit greatly from the improved facilities.

The Truman Farm Home Expansion Act will help America preserve and enhance the legacy of one of our favorite sons and most revered leaders. I urge my colleagues to support this legislation. I would like to thank Resources Committee Chairman POMBO, Ranking Member RAHALL, National Parks Recreation and Public Lands Subcommittee Chairman RADANOVICH, Ranking Member CHRISTENSEN, and Representative BORDALLO for their support.

Ms. BORDALLO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON)

Mr. SKELTON. Mr. Speaker, I rise in strong support of this legislation, and I certainly commend the gentlewoman from Kansas City, Missouri, the fifth district of our State, for her foresight and her effort to expand the boundaries of the Harry Truman Farm.

As we all know, Harry Truman is very special to us in the State of Missouri, and expanding the farm is all the more important because the Park Service wishes to continue to build and preserve the land and to make it a historical part of the farm area. The land will be used to plant vegetation and to shield the site from encroaching modern development.

The Truman Farm was Harry Truman's home in his younger days when he was forming his character and opinions behind the plow. The Truman family purchased this land in 1840. He farmed it from 1906 to 1917. In 1980, there was speculation that financial difficulties would force land to be sold, compelling a group of concerned citizens to form the Harry S Truman Farm Foundation which saved the farm.

We certainly hope that this body will pass this legislation. It is very important to the State of Missouri. I think it is very important to the history and to the memory of the great President from the State of Missouri, Harry Truman, and I again compliment the gentlewoman from Missouri (Ms. MCCARTHY) for her foresight in this legislation.

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

I wish to go on record to thank the sponsor of this measure, the gentlewoman from Missouri (Ms. MCCARTHY) and the very distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

Mr. MOORE. Mr. Speaker, I rise today in support of H.R. 4579, legislation that would authorize the Interior Department to purchase approximately five acres of land, including a

structure north of the Truman Farm House in Independence, Missouri, for inclusion in the Harry S Truman National Historic Site. This addition would modify the current boundary by approximately five acres, to include the acquired lands.

The Truman family purchased the land that now makes up the Truman Farm Home in 1840. Harry Truman farmed it from 1906–1917. In 1980, due to speculation that financial difficulties would force the sale of the land, a group of concerned citizens formed the Harry S Truman Farm Foundation, which received a grant to purchase the land. The Foundation turned the land over to Jackson County, Missouri, in 1991, which transferred the farm to the National Park Service in 1994.

This measure has the support of local landowners and will preserve the viewshed and the historical character of the farm area. The purchase will include a retail paint store that the Park Service will convert into a visitors' center, providing rest room facilities and a paved parking area. I expect the Interior Department will seek appropriations in fiscal year 2006, or see, private donations to pay for implementation of the legislation. The 5.2 acres in question is the only undeveloped land remaining that borders the Site. Over the past six years, the Site has averaged over 5000 vehicles driving through each year. With the improvements planned under H.R. 4579, the Park Service expects an increase in the number of visitors, due to the addition of a visitors' center and paved parking.

I commend my fellow Kansas City Representative, from the other side of State Line Road, KAREN MCCARTHY, for the leadership she has taken in moving this important measure forward, in concert with Senator TALENT, who has introduced a companion bill, S. 2499.

Mr. Speaker, the preservation and expansion of the Truman Farm Home is an important way to preserve and enhance the legacy of our great 33rd President. As he once said, "Do your duty and history will do you justice."

The late President Truman left an extensive record of quoted wisdom. In conclusion, I would like to share with you, Mr. Speaker, four comments of Harry S Truman's—which are as relevant today as they were when he said them several decades ago—that I came across when preparing these remarks: "I have always defined politics to means the science of government, perhaps the most important science, because it involves the art and ability of people to live together." "I've always believed that religion is something to live by and not talk about." "No government is perfect. One of the chief virtues of a democracy, however, is that its defects are always visible and under democratic processes can be pointed out and corrected."

And finally, "The greatest orators have been the men who understood what they wanted to say, said it in short sentences and said it quickly and then got out of there before people fell asleep."

Mr. BLUNT. Mr. Speaker, I rise today in support of H.R. 4579, the Truman Farm Home Expansion Act. This bill would allow the Secretary of the Interior to acquire approximately five acres of land surrounding the Truman Farm Home in Grandview, Missouri, preserving an historic site enjoyed by more than five thousand families each year.

Built in 1894, the Truman Home sits on 5.25 acres of the family's former 600-acre farm where President Truman lived and worked from 1906 to 1917. Acquisition of the five additional acres will prevent future commercial development and save the farm's original setting and character. The National Park service plans to utilize the land to plant vegetation shielding the home from surrounding buildings, in addition to converting one building presently on the property into a visitor's center. These much needed improvements will increase the site's accessibility and secure its authenticity, attracting more visitors to the former President's Grandview home.

By adopting H.R. 4579, we will not only protect a significant part of our history, but will honor a great President who faithfully served America during a time of international unrest. Similar to today's global war against terrorism, President Truman stood firm in the face of an enemy which sought to deter democracy. Out of honor to President Truman and with great appreciation for the historical importance of his Grandview home, I fully support passage of the Truman Farm Home Expansion Act.

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

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4579.

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

A motion to reconsider was laid on the table.

EASTERN WASHINGTON UNIVERSITY LAND TRANSFER AUTHORIZATION EXTENSION

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4596) to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009, as amended.

The Clerk read as follows:

H.R. 4596

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

SECTION 1. EASTERN WASHINGTON UNIVERSITY LAND TRANSFER AUTHORIZATION EXTENSION.

The first section of Public Law 97–435 (96 Stat. 2281) is amended in subsection (c) by striking "five years after the enactment of this Act" and inserting "on December 31, 2009".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

H.R. 4596, introduced by the gentleman from Washington (Mr. NETHERCUTT), simply amends Public Law 97–435 to extend the authorization for the Secretary of the Interior to permit Eastern Washington University to release certain lands in order to acquire other lands more suitable for educational or recreational purposes.

I urge adoption of the bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure, H.R. 4596.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4596, 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.

GULLAH/GEECHEE CULTURAL HERITAGE ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4683) to enhance the preservation and interpretation of the Gullah/Geechee cultural heritage, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4683

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 "Gullah/Geechee Cultural Heritage Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize the important contributions made to American culture and history by African-Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina and Georgia;

(2) assist State and local governments and public and private entities in the South Carolina and Georgia in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Gullah/Geechee Cultural Heritage Corridor Commission established under this Act.

(2) HERITAGE CORRIDOR.—The term "Heritage Corridor" means the Gullah/Geechee Cultural Heritage Corridor established by this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled ''Gullah/Geechee Cultural Heritage Corridor'' numbered GGCHC/80,000, and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act a detailed description and map of the boundaries established under this subsection.

(2) REVISIONS.—The boundaries of the heritage corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this Act; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as ''Gullah/Geechee Cultural Heritage Corridor Commission'' whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 4.

(b) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary as follows:

(1) 4 individuals nominated by the State Historic Preservation Officer of South Carolina and 2 individuals nominated by the State Historic Preservation Officer of Georgia and appointed by the Secretary.

(2) 2 individuals from South Carolina and 1 individual from Georgia who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the Commission shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the Commission in order to assure continuity of operation. Any member of the Commission may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this Act.

SEC. 6. OPERATION OF THE COMMISSION.

(a) DUTIES OF THE COMMISSION.—To further the purposes of the Heritage Corridor, the Commission shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 7;

(2) assist units of local government and other persons in implementing the Approved management plan by—

(A) carry out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with heritage corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the Commission receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The Commission may, for the purposes of preparing and implementing the management plan, use funds made available under this Act to—

(1) make grants to, and enter into cooperative agreements with the States of South Carolina and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

SEC. 7. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

(5) include an inventory of the historical, cultural, natural, resources of the Heritage Corridor related to the themes of the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the Commission or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this Act; and

(9) include an interpretive plan for the Heritage Corridor.

(b) SUBMITTAL OF MANAGEMENT PLAN.—The Commission shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this Act.

(c) FAILURE TO SUBMIT.—If the Commission fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The Commission shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 8. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Upon a request of the Commission, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) SPENDING FOR NON-FEDERAL PROPERTY.—

(1) IN GENERAL.—The Commission may expend Federal funds made available under this Act on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) AGREEMENTS.—Any payment of Federal funds made pursuant to this Act shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 9. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the Commission determines will not have an adverse effect on the Heritage Corridor.

SEC. 10. COASTAL HERITAGE CENTERS.

In furtherance of the purposes of this Act and using the authorities made available under this Act, the Commission shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003.

SEC. 11. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this Act shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

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

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE CORRIDOR.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this Act shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the management entity.

(f) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(g) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the management entity.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this Act.

(b) COST SHARE.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any activity for which assistance is provided under this Act.

(c) IN-KIND CONTRIBUTIONS.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this Act.

SEC. 13. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

H.R. 4683, introduced by the gentleman from South Carolina (Mr. CLYBURN), and as amended by the Committee on Resources, would establish the Gullah/Geechee Cultural Heritage Corridor comprised of lands and waters important to preserving this unique culture in parts of South Carolina and Georgia.

By way of background, throughout the early 1800s, the Gullah/Geechee settled in the coastal counties of South Carolina, Georgia, and northern Florida and, due largely to their isolated location, have remarkably maintained a great deal of their West African heritage.

This bill would assist State and local governments with preserving and interpreting the story of the Gullah/Geechee culture and its wonderful folklore, arts, crafts and music.

I urge adoption of the bill.

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

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

Mr. Speaker, I would like to commend the sponsor of this bill, the gentleman from South Carolina (Mr. CLYBURN) for bringing forth this most important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise today in strong support of H.R. 4683, the Gullah/Geechee Cultural Heritage Act, a bill that would create a Gullah/Geechee National Heritage Corridor and one or more coastal heritage centers along the coasts of Georgia and South Carolina.

When I introduced this bill in June, I hoped, but did not believe, we would see this important legislation on the floor so quickly. I wish to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL) and the gentleman from California (Chairman RADANOVICH) and the gentlewoman from the Virgin Islands (Ranking Member CHRISTENSEN) for their sensitive and prompt treatment of this legislation. I would also like to thank my good friend the gentleman from South Carolina (Mr. BROWN) for his cosponsorship and the gentleman from Georgia (Mr. KINGSTON) for his strong support of this legislation.

Gullah/Geechee people are descendants of enslaved Africans who were forced to labor on plantations along the coasts of North and South Carolina, Georgia, and Florida. They have a rich and distinctive cultural heritage, a culture born of African roots, yet nurtured and developed in the southeastern United States.

Gullah/Geechee people are a proud and independent people who do not want their culture relegated to a museum or a history book. Instead, they want to keep their culture and language alive, to tell their stories in their own words, and share their heritage and experiences with the world. H.R. 4683 would help them to do so.

For the past 4 years, the National Park Service and partnering agencies, Gullah/Geechee communities, and grassroots organizations have worked diligently to create a plan for the protection, preservation, and interpretation of the Gullah/Geechee language and culture. This bill reflects the findings of a 3-year study and input of Gullah/Geechee citizens.

I believe wholeheartedly that this bill would help to lay the groundwork for keeping the culture alive and providing a means not just for the preservation, protection, and reinvigoration of Gullah/Geechee communities and cultural landscapes, but for making those unique experiences an integral part of the future social and economic activities in the southeastern United States. The coastal heritage centers described in the bill will provide places where all Americans can learn of the many contributions Gullah/Geechee ancestors made to American heritage.

Mr. Speaker, I urge support for the passage of this bill, and once again, thank my colleagues for making this day possible.

Ms. BORDALLO. Mr. Speaker, again I would like to commend the sponsor of

this bill, the gentleman from South Carolina.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4683, 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.

LAND EXCHANGE INVOLVING PRIVATE AND PUBLIC LAND IN VICINITY OF HOLLOMAN AIR FORCE BASE, NEW MEXICO

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4808) to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base, as amended.

The Clerk read as follows:

H.R. 4808

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

SECTION 1. LAND EXCHANGE, PRIVATE AND PUBLIC LAND IN VICINITY OF HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) CONVEYANCE OF PUBLIC LAND.—In exchange for the land described in subsection (b), the Secretary of the Interior shall convey to Randal, Jeffrey, and Timothy Rabon of Otero County, New Mexico (in this section referred to as the ''Rabons''), all right, title, and interest of the United States in and to certain public land administered by the Secretary through the Bureau of Land Management consisting of a total of approximately 320 acres, as depicted on the map entitled ''Alamogordo Rabon Land Exchange'' and dated September 24, 2004, and more specifically described as follows:

(1) SE1/4 of section 6, township 17 south, range 10 east, New Mexico principal meridian.

(2) N1/2N1/2 of section 7, township 17 south, range 10 east, New Mexico principal meridian.

(b) CONSIDERATION.—As consideration for the conveyance of the real property under subsection (a), the Rabons shall convey to the United States all right, title, and interest held by the Rabons in and to three parcels of land depicted on the map referred to in subsection (a), which consists of approximately 241 acres, is contiguous to Holloman Air Force Base, New Mexico, and is located within the required safety zone surrounding munitions storage bunkers at the installation. The Secretary shall assume jurisdiction over the land acquired under this subsection. The three parcels are more specifically described as follows:

(1) Lot 4 in the S1/2 of section 30, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 17.6 acres.

(2) E1/2SW1/4 of section 31, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 80 acres.

(3) Lots 1, 2, 3, and 4 of section 31, township 16 south, range 9 east, New Mexico principal meridian, consisting of approximately 143 acres.

(c) INTERESTS INCLUDED IN EXCHANGE.—Subject to valid existing rights, the land exchange under this section shall include conveyance of all surface, subsurface, mineral, and water rights in the lands.

(d) COMPLIANCE WITH EXISTING LAW.—(1) The Secretary shall carry out the land exchange under this section in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716). Notwithstanding subsection (b) of such section, if necessary, a cash equalization payment may be made in excess of 25 percent of the appraised value the public land to be conveyed under subsection (a).

(2) The cost of the appraisals performed as part of the land exchange shall be borne by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

Mr. RADANOVICH. Mr. Speaker, I yield 2½ minutes to the gentleman from New Mexico (Mr. PEARCE), the author of the bill.

Mr. PEARCE. Mr. Speaker, I rise in strong support of H.R. 4808 and would like to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Ranking Member RAHALL), the gentleman from California (Mr. RADANOVICH), the subcommittee chairman, and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the ranking member, for working with me on this important legislation and for moving it expeditiously. I also appreciate the bipartisan support from the Committee on Resources members in reaching a compromise that is reflected in this legislation.

The need for Congress to pass H.R. 4808 arose when a munitions storage bunker was built at Holloman Air Force Base in 1997 and 1998. Holloman Air Force Base serves both the United States' and the German Air Force's training and readiness functions, with Holloman being the home to the F–117 stealth fighter. The Holloman air-to-ground training ranges consist of 1,385,262 acres, almost exclusively in Federal land, and air-to-air training ranges provide 8,352,878 acres of airspace for national security and training. The total military training routes at Holloman Air Force Base is 8,657,964 acres, which includes DOD, DOI, USDA and private lands.

Without an explosive clear zone, Holloman Air Force Base is unable to fully utilize the designed capacity of the bunker, and it adversely impacts the storage quantity of munitions required for training and operations. This directly impacts the ability of Holloman Air Force Base to fully meet its mission of training, readiness, and national security, as well as training our NATO partner, Germany. The cost to replace the munitions storage area is estimated by the Air Force to be $40 million.

The problem is the proposed explosive clear zone encroaches on private property. The Federal Government originally sought to take the private property through condemnation, leaving little choice but for the property owners to vigorously defend their private property rights. This bill resolves the issue and protects both private property and the investment made by the Air Force, and would simply exchange Federal lands in close proximity to ranch boundaries.

Mr. Speaker, this bill reverses a history of over 50 years of the Federal Government either coercing, cajoling, or confiscating property from the landowners. I am proud that the 2nd District has so much land to offer to the Federal Government. I will tell my colleagues that we should not continue to get it through confiscation.

I would like to thank the committee staff members, both minority and majority, for working with my staff member Matt Meagher over the weekend, through the nights, and through very difficult hurdles to solve this bill. This bill protects our national security, saves the taxpayers a minimum $40 million, protects private property, guarantees the Federal Government will receive value for value given, and is fair to all the parties concerned.

I urge my colleagues to support H.R. 4808.

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

Mr. Speaker, we have no objection to the consideration of this measure.

Ms. WILSON of New Mexico. Mr. Speaker, I rise today to support S. 643, the Hibben Center Act. S. 643 is identical to H.R. 3258, a bill that I introduced on November 7, 2003 and that was favorable reported by the House Resources Committee on September 9, 2004.

For six centuries, massive prehistoric structures lay untouched in a remote area of northwestern New Mexico. Chaco Canyon was the home of many indigenous southwestern peoples from between A.D. 850 and 1250. The Pueblo peoples of New Mexico, the Hopi of Arizona, and the Navajo consider Chaco Canyon to be part of their ancestral homelands.

In recognition of its significance, President Theodore Roosevelt designated Chaco Canyon a national monument in 1907 and Congress changed the park's designation to a national historical park in 1980.

The University of New Mexico (UNM) has participated in exploring, preserving, and documenting Chaco Canyon's extensive archaeological sites since Chaco Canyon National Monument was founded in 1907. In 1949,

UNM deeded its lands in Chaco Canyon National Monument to the United States Government in exchange for continued rights to conduct scientific research in the area. Since then, UNM and the National Park Service (NPS) have been partners in researching and reserving the Chaco Canyon collection.

S. 643 is an authorization bill, allowing the NPS to spend money away from Park Service lands for this collection. Specifically, this bill will allow the Park Service to design and construct a museum, storage facility, and workspace in the Hibben Archaeological Research Center on the University of New Mexico campus in Albuquerque, New Mexico. Funding for this project has already been appropriated in the National Park Service Line Item Construction Program 5-year budget, for funding in FY 2006. This project will require no additional or new money from Congress.

Continuing the longstanding relationship with UNM, the shell of the Hibben Center and academic spaces have already been built by UNM with an area unfinished for the Park Service to build out for its Chaco Collection if Congress authorizes it.

Additionally, there will be no ongoing operational costs for the Park Service because UNM has agreed to be responsible for 100 percent of the ongoing utilities, maintenance, and operation costs associated with the project.

Over 5 million artifacts excavated from Chaco Canyon are stored at UNM. Unfortunately, they are currently housed in three substandard facilities that have water pipes that leak on the collection; inadequate or non-existent security and fire protection systems; and no environmental controls. In one instance, the tin roofing was blown off a storage facility exposing artifacts to leaking tar.

A primary component of the project is to create a single storage facility for the artifacts that will provide enhanced security, environmental controls such as proper temperature and humidity levels, and a fire detection and suppression system. In addition to storing the Chaco Canyon collection, the Hibben Center will provide Chacoan descendents, researchers, and students a single location from which to access artifacts, archives, and data collections.

In closing, I would like to thank Chairman POMBO and Subcommittee Chairman RADANOVICH for a their work on this bill and for moving this bill through the House Resources Committee. I urge swift passage of this legislation.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4808, 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.

HIBBEN CENTER ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 643) to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

S. 643

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 ''Hibben Center Act''.

SEC. 2. LEASE AGREEMENT.

(a) AUTHORIZATION.—The Secretary of the Interior may enter into an agreement with the University of New Mexico to lease space in the Hibben Center for Archaeological Research at the University of New Mexico for research on, and curation of, the archaeological research collections of the National Park Service relating to the Chaco Culture National Historical Park and Aztec Ruins National Monument.

(b) TERM; RENT.—The lease shall provide for a term not exceeding 40 years and a nominal annual lease payment.

(c) IMPROVEMENTS.—The lease shall permit the Secretary to make improvements and install furnishings and fixtures related to the use and curation of the collections.

SEC. 3. GRANT.

Upon execution of the lease, the Secretary may contribute to the University of New Mexico:

(1) up to 37 percent of the cost of construction of the Hibben Center, not to exceed $1,750,000; and

(2) the cost of improvements, not to exceed $2,488,000.

SEC. 4. COOPERATIVE AGREEMENT.

The Secretary may enter into cooperative agreements with the University of New Mexico, Federal agencies, and Indian tribes for the curation of and conduct of research on artifacts, and to encourage collaborative management of the Chacoan archaeological artifacts associated with northwestern New Mexico.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

S. 643, as amended by the Committee on Resources, would authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico.

The gentlewoman from New Mexico (Mrs. WILSON) has authored the House companion bill, H.R. 3258, and we are amending the Senate version to reflect the contents of her bill.

This important project is the latest in a longstanding partnership between the university and the National Park Service and would significantly benefit the research and curation of the archaeological collections of the National Park Service currently being stored at the university. The gentlewoman from New Mexico (Mrs. WILSON) should be commended for her tireless work on behalf of her constituents.

I urge adoption of the bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 643, as amended.

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

A motion to reconsider was laid on the table.

□ 1530

MANHATTAN PROJECT NATIONAL HISTORICAL PARK STUDY ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S.1687) to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

The Clerk read as follows:

S. 1687

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 ''Manhattan Project National Historical Park Study Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STUDY.—The term ''study'' means the study authorized by section 3(a).

(3) STUDY AREA.—

(A) IN GENERAL.—The term ''study area'' means the historically significant sites associated with the Manhattan Project.

(B) INCLUSIONS.—The term ''study area'' includes—

(i) Los Alamos National Laboratory and townsite in the State of New Mexico;

(ii) the Hanford Site in the State of Washington; and

(iii) Oak Ridge Reservation in the State of Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a special resource study of the study area to assess the national significance, suitability, and feasibility of designating 1 or more sites within the study area as a unit of

the National Park System in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)).

(2) ADMINISTRATION.—In conducting the study, the Secretary shall—

(A) consult with interested Federal, State, tribal, and local officials, representatives of organizations, and members of the public;

(B) evaluate, in coordination with the Secretary of Energy, the compatibility of designating 1 or more sites within the study area as a unit of the National Park System with maintaining the security, productivity, and management goals of the Department of Energy and public health and safety; and

(C) consider research in existence on the date of enactment of this Act by the Department of Energy on the historical significance and feasibility of preserving and interpreting the various sites and structures in the study area.

(b) REPORT.—Not later than 2 years after the date on which funds are made available to carry out the study, the Secretary shall submit to Congress a report that describes the findings of the study and the conclusions and recommendations of the Secretary.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore (Mr. ISSA). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, S.1687, introduced by Senator BINGAMAN of New Mexico, would direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project, such as Los Alamos National Laboratory in New Mexico or the Hanford site in Washington State. The gentleman from Washington (Mr. HASTINGS) has authored the House companion bill, H.R. 3207, and has asked us to move the Senate bill in the interest of time, and I urge adoption of the bill.

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

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

Mr. Speaker, I would like to commend the sponsor of this bill, Senator BINGAMAN of New Mexico, and urge its favorable consideration.

Mr. HASTINGS of Washington. Mr. Speaker, as the author of the House version of the "Manhattan Project National Historical Study Act" I rise today to offer my support for this legislation. Senator CANTWELL and I have worked together across party lines to develop this proposal because it's important to the people of Central Washington. And, because it presents a unique opportunity to share a piece of our Nation's history. I am pleased that our plan has been brought up for consideration today and I encourage my colleagues to support it.

By providing for a study of our nation's Manhattan Project Sites, we take an important first step towards the goal of making Hanford's B Reactor into a museum. This is the first step in preserving the historic B Reactor for generations to come.

In 1943, only months after Enrico Fermi first demonstrated that controlled nuclear reaction was possible, ground was broken on the B Reactor—which went on to become the first full-scale plutonium production reactor. An integral part of the Manhattan Project, B Reactor produced the plutonium for the bomb dropped on Nagasaki that helped win World War II.

From a scientific standpoint, the B Reactor is a testament to American ingenuity and innovation. From a historical standpoint it represents a part of Central Washington's past and our Nation's past that should not be forgotten. For those who didn't live through World War II—the B Reactor helps tell the story of a workforce that contributed to our Nation's defense for so many years.

Walking through the B Reactor is like catching a glimpse into the 1940's. Because it has been left largely intact, the tour gives you a very real sense of what it might have been like to work at the B Reactor.

The B Reactor Museum Association and the local community are driving forces behind this project. I share their enthusiasm for preservation of the B Reactor and I believe this proposal is a great step towards making this project a reality.

It is especially appropriate that the House consider this proposal today because the local community will be celebrating B Reactor's 60th Anniversary on October 9th. I can think of no better way to commemorate this anniversary and honor those who worked at B Reactor than approving this bill and sending it to the President's desk.

As an author of this bipartisan plan, I encourage my colleagues to support the "Manhattan Project National Historical Study Act" so that we can begin studying how best to share the story of the B Reactor, and the Nation's other Manhattan Project Sites with future generations.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1687.

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

A motion to reconsider was laid on the table.

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2052) to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Trail.

The Clerk read as follows:

S. 2052

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 "El Camino Real de los Tejas National Historic Trail Act".

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled 'El Camino Real de los Tejas' contained in the report entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated July 1998.

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as 'the Secretary') shall administer the trail.

"(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner's approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

"(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

"(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

"(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

"(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, S. 2052, introduced by Senator HUTCHISON of Texas, would amend the National Trail System to designate the El Camino Real de los Tejas, or the Royal Road of Texas, as a National Historic Trail. Originally

linking Mexico City through modern-day Texas and Louisiana, the El Camino Real provided missionaries, explorers, traders, ranchers and military passageway through the rugged unconquered terrain of North America, and I urge adoption of this Senate bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentlewoman from Guam for yielding me this time, and I am honored to rise to support Senate bill 2052, the Camino Real de los Tejas National Historic Trail Act.

This bill is the Senate version of the legislation I introduced, recognizing the historical and cultural heritage of what has become known as the Camino Real de los Tejas. The Camino Real de los Tejas is a series of trails extending from the Rio Grande through San Antonio, and ending in Louisiana, covering nearly 2,600 miles in all.

For more than 150 years, these trail systems served as critical trade routes, post roads, cattle trails and military highways. These roads were also, prior to the Spanish, were the trails the Native Americans utilized for almost 500 years.

The history of the United States is often taught as the western migration and the settlements of this continent. That history is, of course, central to our national experience. But there is another history that deserves our attention and recognition. That history is the south-to-north migration of the Spanish, the Native Americans, and the peoples of Mexico and Latin America.

The Spanish and the Mexican exploration and development of Texas followed these patterns from the late 1600s to the time of Texas independence in 1836. Even today, that pattern continues as people from Latin America trade with the United States, visit our country, and migrate here seeking new lives.

The Camino Real de los Tejas National Historic Trail will give us the tools to remember that critical history and will provide local communities and organizations with the opportunity to develop cultural tourism in cooperation with the National Park Service. The Camino Real de los Tejas trail system was an important commercial and cultural trade corridor that helped define the history of Texas.

Mr. Speaker, I first introduced the legislation to establish El Camino de los Tejas Trail in 1998. During these past 6 years, I and my staff have worked closely with local community leaders and other Members of Congress to craft a bill that would recognize the history of the trail while absolutely protecting the private property rights. I am proud this legislation enjoys bipartisan support in both the Senate and House.

I want to recognize the support and the work of Senator KAY BAILEY HUTCHISON, the senior Senator from Texas, who introduced this companion bill earlier this year and successfully negotiated its passage in the Senate. I want to personally thank her, because without her efforts, we would not be where we are at now.

I also want to thank the staff who worked on this bill in the committee and in our personal offices, including Laura Marquez of my office, and I especially want to thank my chief of staff, Jeff Mendelsohn, who has spearheaded our efforts to pass this bill during the past 6 years. His focus and dedication to the project has made today's passage possible.

I also want to thank Al Notzon, back home in San Antonio, who has worked and gotten some 30 or 40 letters from cities and counties and a multitude of individuals throughout the State of Texas and Louisiana to come forth.

The beauty of this piece of legislation is that it allows us to get a good recognition of our history. One important thing I would like to mention, Mr. Speaker, is that during the War of 1812, whether you know it or not, through this trail came 10,000 head of cattle. If it had not been for those Mexican cows coming through there, no telling what would have happened in 1812. But we were able to pull it off in that war, and that is one of the little tidbits of history that is there regarding this trail and which was so significant to the making of this country.

Ms. BORDALLO. Mr. Speaker, I thank my colleague, the gentleman from Texas (Mr. RODRIGUEZ) for his comments on this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2052.

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

A motion to reconsider was laid on the table.

TRAIL RESPONSIBILITY AND ACCOUNTABILITY FOR THE IMPROVEMENT OF LANDS ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3247) to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3247

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 ''Trail Responsibility and Accountability for the Improvement of Lands Act'' or ''TRAIL Act''.

SEC. 2. CONSISTENT ENFORCEMENT AUTHORITY REGARDING NATIONAL PARK SYSTEM LANDS, NATIONAL FOREST LANDS, AND OTHER PUBLIC LANDS.

(a) LANDS UNDER JURISDICTION OF BUREAU OF LAND MANAGEMENT.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking the second sentence; and

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

''(2) Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

''(3) Any person who otherwise violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.''.

(b) NATIONAL PARK SYSTEM LANDS.—

(1) ENFORCEMENT.—Section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3) is amended—

(A) by striking ''That the Secretary'' the first place it appears and inserting ''(a) REGULATIONS FOR USE AND MANAGEMENT OF NATIONAL PARK SYSTEM; ENFORCEMENT.—(1) The Secretary'';

(B) by striking ''Service,'' and all that follows through ''proceedings.'' and inserting ''Service.''; and

(C) by inserting after the first sentence the following new paragraphs:

''(2) Any person who knowingly violates or fails to comply with any rule or regulation issued under this section shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

''(3) Any person who otherwise violates or fails to comply with any such rule or regulation shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such rule or regulation may also be adjudged to pay all costs of the proceedings.''.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) by striking ''He may also'' the first place it appears and inserting the following: ''(b) SPECIAL MANAGEMENT AUTHORITIES.—The Secretary of the Interior may'';

(B) by striking ''He may also'' the second place it appears and inserting ''The Secretary may''; and

(C) by striking ''No natural,'' and inserting the following:

''(c) LEASE AND PERMIT AUTHORITIES.—No natural''.

(c) NATIONAL WILDLIFE REFUGE SYSTEM LANDS.—Section 4(f) of the National Wildlife

Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended—

(1) in paragraph (1), by striking ''fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.'' and inserting ''guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.'';

(2) in paragraph (2), by striking ''fined under title 18, United States Code, or imprisoned not more than 180 days, or both.'' and inserting ''guilty of a Class B misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.''.

(d) NATIONAL FOREST SYSTEM LANDS.—The eleventh undesignated paragraph under the heading ''SURVEYING THE PUBLIC LANDS'' of the Act of June 4, 1897 (16 U.S.C. 551), is amended to read as follows:

''SEC. 551. PROTECTION OF NATIONAL FORESTS; REGULATIONS.

''(a) REGULATIONS FOR USE AND PROTECTION OF NATIONAL FOREST SYSTEM.—The Secretary of Agriculture shall make provisions for the protection of the National Forest System (as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609)) against destruction by fire and depredations. The Secretary may issue such regulations and establish such service as will insure the objects of the National Forest System, namely, to regulate their occupancy and use and to preserve the forests therein from destruction.

''(b) VIOLATIONS; PENALTIES.—(1) Any person who knowingly violates any regulation issued under subsection (a) shall be guilty of a Class A misdemeanor. Any person who otherwise violates any such regulation shall be guilty of a Class B misdemeanor. A person who violates any such regulation shall be subject to a fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

''(2) A person who violates any regulation issued under subsection (a) may also be adjudged to pay all costs of the proceedings.

''(c) PROCEDURE.—Any person charged with the violation of a regulation issued under subsection (a) may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which the magistrate judge was appointed, in the same manner and subject to the same conditions as provided for in subsections (b) through (e) of section 3401 of title 18, United States Code.''.

SEC. 3. ESTABLISHMENT OF MINIMUM FINE FOR VIOLATION OF PUBLIC LAND FIRE REGULATIONS DURING FIRE BAN.

(a) LANDS UNDER JURISDICTION OF BUREAU OF LAND MANAGEMENT.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), as amended by section 2(a), is further amended by adding at the end the following new paragraph:

''(4) In the case of a regulation issued under this section regarding the use of fire by individuals on the public lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.''.

(b) NATIONAL PARK SYSTEM LANDS.—Subsection (a) of section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3), as designated and amended by section 2(b), is further amended by adding at the end the following new paragraph:

''(4) In the case of a rule or regulation issued under this subsection regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.''.

(c) NATIONAL FOREST SYSTEM LANDS.—Subsection (b) of section 551 of the Act of June 4, 1897 (16 U.S.C. 551), as designated and amended by section 2(d), which before such designation and amendment was the eleventh undesignated paragraph under the heading ''SURVEYING THE PUBLIC LANDS'' of such Act, is further amended by adding at the end the following new paragraph:

''(3) In the case of a regulation issued under subsection (a) regarding the use of fire by individuals on National Forest System lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than $500.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, introduced by the gentleman from Colorado (Mr. TANCREDO), H.R. 3247, the Trail Responsibility and Accountability for Improvement of Lands, or TRAIL Act, would provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands.

Additionally, it creates a minimum fine of $500 for anyone who knowingly starts a fire during a fire ban. The bill shares bipartisan support, and I urge its adoption.

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

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

Mr. Speaker, we have no objection to the consideration of H.R. 3247.

Mr. TANCREDO. Mr. Speaker, I thank the House leadership for moving this legislation, which I introduced nearly one year ago. It stiffens the penalties for folks who willfully destroy our public lands, and standardizes them across most Federal lands. In addition, the bill includes provisions of H.R. 1038, which I also introduced, setting a tough, minimum fine of $500 for individuals who violate fire regulations on public lands when a complete ban on open fires is in place.

I want to recognize and thank Chairman POMBO, Chairmen MCINNIS and WALDEN, Chairman RADANOVICH, Chairman GOODLATTE, and Chairman SENSENBRENNER for their efforts over the last two fire seasons in finally getting this legislation to the floor. I'd also like to thank another colleague from Colorado, Mr. UDALL, who was instrumental in helping to make passage of this legislation possible today.

Those of us privileged to represent western States here in the Congress know of the long running battle between Federal land agencies and private interests—mainly because the Federal Government is the landlord of so much of the land in the western part of the United States. Over the years, issues of contention have ranged from grazing rights, to forest management, and energy development. Today, the public lands debate is also characterized by access to public lands for different recreational activities—all of which have an enormous and positive economic impact on the communities that we represent.

In the last 20 years, Americans have found new ways to enjoy their public lands and waterways beyond just hiking, horseback riding, or powerboats. Today, mountain bikers, ATVs, SUVs, and snowmobilers also use our public lands. Many of these vehicles represent the only access to the great outdoors to a whole segment of our population—folks like senior citizens and the disabled—that might not otherwise be able to get out and visit beautiful places like the Pike National Forest in my district.

The economic impact for Colorado of these kinds of recreational activities contributes more than $200 million to our economy, creating more than 3,100 jobs. With those economic benefits however, have come conflicts and irresponsible people.

No one here will say that there haven't been problems with certain individuals and groups abusing, misusing and in some instances, destroying valuable property on our Federal lands. Because of the actions of these thoughtless people, future generations have been deprived of the opportunity to view and enjoy our public lands.

Recreation on our public lands and waterways will continue to grow—and it should. This bill will help equip our land managers with the means to appropriately and evenhandedly enforce land use regulations against those few bad apples who spoil the whole bunch. The TRAIL Act accomplishes this by creating consistent fines and penalties among all of our land use agencies. In doing so, the bill also increases fines and penalties substantially for people who knowingly engage in inappropriate behavior.

The second section of the bill addresses the growing problem of human caused wildfires on our public lands. Over the last 10 years, human carelessness has been responsible for the ignition of just over one million wildfires on our public lands. By comparison, lightning has caused only about one-tenth that many fires over the same time period.

The current penalties for violating fire regulations vary from agency to agency. In a practical sense, however, the fines are generally assessed at a far lower level. In fact, under current law, fines—or ''collaterals'' as they are called, are set as low as $25—little more than the cost of a seatbelt ticket in most states. I believe, as I think most people do, that these weak penalties lack any real deterrent value for would-be violators. In fact, one district ranger in Colorado related a story to me about a would-be visitor to the Pike National Forest who called to inquire if he could pay the puny fine in advance.

In 2002, well after the imposition of the fire ban by both the Governor of Colorado and the Forest Supervisor—I was flying over Hayman Fire with the same district ranger. In addition to having a birds-eye view of the largest wildfire in State history, the two of us also had an excellent view of several campfires dotting the landscape outside its perimeter. He told me that even in the midst of a fire season like the one we had in Colorado—where some 800 human caused wildfires destroyed over a quarter of a million acres—that enforcing the ban was a continuing problem in large part because the fine is so small.

Enhancing the penalties for those who chose to disregard the directives of our land managers may be one way we can reduce both the number of human caused wildfires and the terrible destruction they leave in their wake by creating a deterrent. This bill would accomplish that by imposing a minimum fine of $500 for individuals who violate fire regulations during period when declared fire bans are in effect.

I hope the House will pass the bill, and ask for your support.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3247, as amended.

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

The title of the bill was amended so as to read: ''A Bill to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, and for other purposes.''.

A motion to reconsider was laid on the table.

SMALL TRACTS ACT AMENDMENTS

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4617) to amend the Small Tracts Act to facilitate the exchange of small tracts of land, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4617

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

SECTION 1. LAND EXCHANGES, TAHOE NATIONAL FOREST, CALIFORNIA.

(a) CHRISTENSEN EXCHANGE AUTHORIZED.—Notwithstanding section 3 of Public Law 97–465 (16 U.S.C. 521e; commonly known as the Small Tracts Act), the Secretary of Agriculture may use the authority of such Act to convey to Irving N. Christensen all right, title, and interest of the United States in and to a parcel of National Forest System land lying north of California State Highway 49 within the N½N½ of section 17 of township 19 north, range 9 east, Mount Diablo meridian, in exchange for lands owned by Irving N. Christensen, as of the date of the enactment of this Act, in that portion of the SW¼NW¼ of section 16 of township 19 north, range 9 east, Mount Diablo meridian, lying southwest of California State Highway 49 and that portion of S½NE¼ of section 17 of township 19 north, range 9 east, Mount Diablo meridian, lying southwest of California State Highway 49 and northeast of the North Fork Yuba River.

(b) MCCREARY EXCHANGE AUTHORIZED.—For purposes of Public Law 97–465 (16 U.S.C. 521c et seq.; commonly known as the Small Tracts Act), the land exchange authorized by this subsection is deemed to involve a mineral survey fraction. Using the authority of such Act, the Secretary of Agriculture may convey to Dennis W. McCreary and Cindy M. McCreary all right, title, and interest of the United States in and to a parcel of National Forest System land in Lot 121 of section 35 of township 20 north, range 10 east, Mount Diablo meridian, in exchange for lands owned by Dennis W. McCreary and Cindy M. McCreary, as of the date of the enactment of this Act, in Lot 19 of such section 35.

(c) WITHDRAWAL.—Subject to valid existing rights, all lands to be exchanged under this section are withdrawn from location, entry, and patent under the mining laws of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 4617 would facilitate the exchange of two small tracts of land under the Small Tracts Act in the Tahoe National Forest in California.

The first would exchange 3 acres of mineral rights from the Forest Service to the owner of the surface in exchange for 7 acres of land adjacent to a Forest Service campground.

The second would provide for the exchange of less than 1 acre owned by the Forest Service and located in the back yard of the property owner, with a parcel of less than an acre near a Forest Service trailhead. The Forest Service has indicated its interest and support for these exchanges in correspondence to the landowners, and I urge support of this bill.

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

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

Mr. Speaker, we have no objection to the consideration of H.R. 4617.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4617, as amended.

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

The title of the bill was amended so as to read: ''A Bill to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.''.

A motion to reconsider was laid on the table.

MCINNIS CANYONS NATIONAL CONSERVATION AREA

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4827) to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

The Clerk read as follows:

H.R. 4827

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

SECTION 1. MCINNIS CANYONS NATIONAL CONSERVATION AREA.

(a) PURPOSE.—The Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 (16 U.S.C. 460mmm et seq.) is amended in section 2(b) by striking ''Colorado Canyons'' and inserting ''McInnis Canyons''.

(b) DEFINITIONS.—Section 3 of such Act is amended—

(1) in paragraph (1), by striking ''Colorado'' and inserting ''McInnis''; and

(2) in paragraph (2), by striking ''Colorado'' and inserting ''McInnis''.

(c) COLORADO CANYONS NATIONAL CONSERVATION AREA.—Section 4 of such Act is amended—

(1) in the heading, by striking ''COLORADO'' and inserting ''McINNIS''; and

(2) in subsection (a), by striking ''Colorado Canyons'' and inserting ''McInnis Canyons''.

(d) ADVISORY COUNCIL.—Section 8(a) of such Act is amended by striking ''Colorado Canyons'' and inserting ''McInnis Canyons''.

(e) SHORT TITLE.—Section 1 of such Act is amended by striking ''Colorado'' and inserting ''McInnis''.

(f) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the ''Colorado Canyons National Conservation Area'' shall be deemed to be a reference to the ''McInnis Canyons National Conservation Area''.

(g) EFFECTIVE DATE.—This section and the amendments made by this section take effect on January 1, 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

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

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

Mr. Speaker, this legislation, introduced by the gentleman from Oregon (Mr. WALDEN), would rename the Colorado Canyons National Conservation

Area as the McInnis Canyons National Conservation Area.

Later this year, our colleague, the gentleman from Colorado (Mr. MCINNIS), will retire after over 22 years of public service. Throughout that time, SCOTT MCINNIS has achieved a great deal on behalf of the people of Colorado.

The Colorado Canyons National Conservation Area is 122,000 acres of pristine and rugged canyon lands located just outside the Grand Junction home of the gentleman from Colorado (Mr. MCINNIS). Four years ago, the gentleman from Colorado was the driving force behind the legislation that led to the preservation of these Colorado canyons. Mr. Speaker, as the gentleman from Colorado (Mr. MCINNIS) returns home to the State and the people he adores, I can think of no more fitting tribute.

Mr. Speaker, I urge adoption of the bill.

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

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I consume.

Mr. Speaker, again we have no objection to the consideration of this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4827.

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

A motion to reconsider was laid on the table.

HEALTHY FOREST YOUTH CONSERVATION CORPS ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4838) to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fires and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4838

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 ''Healthy Forest Youth Conservation Corps Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the natural fire regimes of forested public land have been altered by intensive fire suppression;

(2) fire suppression has led to increased risk of unnaturally severe wildfires that in recent years have destroyed thousands of homes, devastated agricultural crops and livestock, reduced biodiversity, and scorched thousands of areas of soil and natural resources;

(3) catastrophic wildfires pose a particular threat to communities and wildlife living close to forested wildland, known as the ''wildland-urban interface'';

(4) each year millions of dollars are spent to fight severe wildfires and protect communities where municipal water supplies, human lives, and property are threatened;

(5) contracts and cooperative agreements between Federal agencies and State and local governments and other entities empower communities and are cost-effective tools that provide positive social and environmental benefits, and the use of such contracts and agreements should be encouraged as a means to prevent unnaturally severe fires, rehabilitate public land affected or altered by fires, and enhance and maintain environmentally important land and water; and

(6) joint collaborations between the Federal agencies and service and conservation corps composed of young adults are particularly beneficial, as the collaborations provide—

(A) young adults the opportunity to prepare for productive lives while engaged in meaningful and educational public service opportunities; and

(B) the public with cost-saving human resources to assist in conserving, maintaining, and protecting public land.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to allow service and conservation corps to enter into agreements with public land management agencies to perform rehabilitation and enhancement projects to prevent fire, rehabilitate public land affected or altered by fires, and suppress fires, and provide disaster relief;

(2) to offer young adults who are members of a service and conservation corps, particularly young adults who are at-risk or economically disadvantaged, a chance to obtain skills and experience in forest restoration, so that they are better equipped to gain productive employment in the expanding workforce being deployed on National Forest System lands in fuels reduction, post-fire rehabilitation, and other forest health projects, and so that the pool of trained workers in forest restoration is expanded to satisfy the existing and increasing need for such workers;

(3) to provide those young adults the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Healthy Forest Youth Conservation Corps with an increased ability to pursue higher education or employment.

SEC. 4. HEALTHY FOREST YOUTH CONSERVATION CORPS.

(a) ESTABLISHMENT.—There is established a Healthy Forest Youth Conservation Corps.

(b) PARTICIPANTS.—The Corps shall consist of young adults who are enrolled as members of a service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c).

(c) CONTRACTS OR AGREEMENTS.—The Secretary concerned may enter into contracts or cooperative agreements directly with—

(1) any service and conservation corps to carry out a rehabilitation and enhancement project described in subsection (d); or

(2) a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to carry out a rehabilitation and enhancement project described in subsection (d).

(d) AUTHORIZED PROJECTS.—Under a contract or cooperative agreement entered into under subsection (c), a service and conservation corps may carry out a rehabilitation and enhancement project to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, including—

(1) a project relating to the National Fire Plan;

(2) a project relating to the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.); and

(3) other activities allowed under—

(A) a national forest and grassland land management plan; or

(B) a Bureau of Land Management land use plan.

(e) PRIORITY PROJECTS.—In entering into a contract or cooperative agreement under subsection (c), the Secretary concerned shall give priority to rehabilitation and enhancement projects that will—

(1) reduce hazardous fuels on public land;

(2) restore public land affected or imminently threatened by disease or insect infestation;

(3) rehabilitate public land affected or altered by fires;

(4) assess windthrown public land or public land at high risk of reburn;

(5) work to address public land located within relative proximity to a municipal watershed and municipal water supply;

(6) provide related emergency assistance, such as natural disaster relief and the rescue of lost or injured persons;

(7) instill in members of the service and conservation corps a work ethic and a sense of personal responsibility;

(8) be labor-intensive; and

(9) be planned and initiated promptly.

(f) ACTIVITIES PERFORMED BY CORPS MEMBERS WHO ARE UNDER 18.—A young adult under the age of 18 who is enrolled as a member of a service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c) may perform the following types of activities as part of a rehabilitation and enhancement project carried out under the contract or cooperative agreement:

(1) Performance of logistical support at fire caches or with the supply unit in support of a fire suppression project.

(2) Conducting pre-treatment inventory and other preparatory work, such as building control lines with hand tools, in advance of a prescribed fire project, and conducting post-treatment evaluation and monitoring of the project.

(3) Participation in fire-prevention patrols and the dissemination of fire prevention information.

(4) Performance of certain aspects of a Burned Area Emergency Rehabilitation project, approved by the Secretary, if not on site, then in a support role receiving and distributing materials and supplies.

(g) SUPPORTIVE SERVICES.—The Secretary concerned may provide such services as the Secretary considers to be necessary to carry out this Act, including technical assistance, oversight, monitoring, and evaluation to or for—

(1) State departments of natural resources and agriculture (or equivalent agencies);

(2) service and conservation corps;

(3) in the case of Indian lands, the applicable Indian tribe;

(4) in the case of Hawaiian home lands, the applicable State agency in the State of Hawaii; and

(5) in the case of land under the jurisdiction of an Alaska Native Corporation, the applicable Alaska Native Corporation.

(h) OTHER USES OF FUNDS.—Funds made available under this Act may be used to support implementation, monitoring, training,

technical assistance, and administrative work of service and conservation corps covered by a contract or cooperative agreement entered into under subsection (c).

SEC. 5. NONCOMPETITIVE HIRING STATUS.

The Secretary may grant a person who is a former member of the Healthy Forest Youth Conservation Corps with credit for time served as a member of the Corps toward future Federal hiring and may provide the person with a noncompetitive hiring status for not more than 120 days beginning on the date on which the person completed service as a member of the Corps.

SEC. 6. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out under this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' means a Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) HAWAIIAN HOME LANDS.—The term ''Hawaiian home lands'' has the meaning given the term in section 203 of Public Law 91–378 (commonly known as the Youth Conservation Corps Act of 1970; 16 U.S.C. 1722).

(3) INDIAN LANDS.—The term ''Indian lands'' has the meaning given the term in section 203 of Public Law 91–378 (commonly known as the Youth Conservation Corps Act of 1970; 16 U.S.C. 1722).

(4) PUBLIC LAND.—The term ''public land'' means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)));

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) and other land administered by the Secretary of the Interior through the United States Fish and Wildlife Service;

(C) land owned by a State or local agency;

(D) Indian lands, with the approval of the applicable Indian tribe;

(E) Hawaiian home lands, with the approval of the applicable State agency in the State of Hawaii; and

(F) land under the jurisdiction of an Alaska Native Corporation, with the approval of the applicable Alaska Native Corporation.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in subparagraph (A) of paragraph (4);

(B) the Secretary of the Interior, with respect to public land described in subparagraph (B) of such paragraph; and

(C) the Secretary of Agriculture and the Secretary of the Interior jointly, with respect to land described in subparagraphs (C) through (F) of such paragraph.

(6) SERVICE AND CONSERVATION CORPS.—The term ''service and conservation corps'' means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a research-validated demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the Federated States of Micronesia;

(H) the Republic of the Marshall Islands;

(I) the Republic of Palau; and

(J) the United States Virgin Islands.

(8) YOUNG ADULT.—The term ''young adult'' means an individual between 16 and 25 years of age.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $5,000,000 for each of fiscal years 2005 through 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 4838, introduced by the gentleman from Oregon (Mr. WALDEN), would authorize the Secretary of the Interior and Agriculture to enter into contracts with nonprofit youth conservation corps to carry out land management initiatives relating to the Healthy Forest Restoration Act.

This legislation was originally included in the Healthy Forest Restoration Act, but was removed during negotiations. This bill shares bipartisan support and will allow youth conservation corps to perform service projects related to forest health, restoration, and community protection from wildfire. I urge adoption of the bill.

Mr. Speaker, I submit for the RECORD letters to and from the Committee on Resources and the Committee on Agriculture regarding this piece of legislation:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 27, 2004.

Hon. ROBERT GOODLATTE,
Chairman, Committee on Agriculture, 1301 Longworth HOB, Washington, DC.

DEAR MR. CHAIRMAN: On September 15, 2004, the Committee on Resources reported with amendments H.R. 4838, the Healthy Forest Youth Conservation Corps Act of 2004. The bill was referred primarily to the Committee on Resources, with an additional referral to the Committee on Agriculture because it affects activities in forests not created from the public domain.

Staffs from both of our Committee's have been working diligently on further amending the bill in the form of an amendment in the nature of a substitute for consideration under suspension of the rules on the House floor. The amendment they have crafted should address your concerns. First, it reduces the authorization of appropriations from $25 million per fiscal year to $5 million for each fiscal year 2005 through 2009. Additionally, the amendment will address Administration concerns by limiting the type of work performed by 16 and 17 year olds.

Knowing that the 108th Congress is rapidly drawing to a close, I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill so that it may be scheduled under suspension of the rules tomorrow.

This discharge in no way affects your jurisdiction over the subject matter of the bill and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Agriculture represented on the conference committee. Thank you for your consideration of my request.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 27, 2004.

Hon. RICHARD POMBO,
Chairman, House Committee on Resources, 1324 Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for forwarding a draft copy of H.R. 4838, the ''Healthy Forest Youth Conservation Corps Act of 2004'', as ordered reported by your Committee on September 15, 2004. As you are aware, the Committee on Agriculture was granted an additional referral of this legislation on those provisions that fall within the jurisdiction of this Committee.

Knowing of your interest in expediting this legislation and in maintaining the continued consultation between our Committees on these matters, I will agree to discharge H.R. 4838 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim over these or similar measures. In addition, in the event a conference with Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if it should become necessary.

Once again, I am grateful for the cooperative spirit in which you have worked regarding this matter and others between our respect committees.

Sincerely,

BOB GOODLATTE,
Chairman.

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

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

Mr. Speaker, I would like to commend the cosponsor of this legislation, the gentleman from New Mexico (Mr. UDALL) for bringing forth this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Arizona for yielding me this time and for his leadership on the Committee on Resources and on this bill. I also want to thank the chairman for his leadership and also the gentleman from Oregon (Mr. WALDEN), who I have worked very closely with on this bill, the Healthy Forest Youth Conservation Corps.

This legislation will allow the Secretaries of Agriculture and Interior to contract directly with the youth service and conservation corps to carry out rehabilitation and enhancement projects in our parks and forests, placing a priority on those projects that prevent and suppress forest fires. This partnership between the Federal Government and the Nation's service and

conservation corps will provide cost-effective assistance in preventing forest fires and restoring damaged forests lands.

□ 1545

In addition to providing additional resources to control forest fires, the program will offer important work experience to low-income, disadvantaged, and often minority youth between the ages of 16 and 24 who, through the corps, will develop the skills and habits they need to become productive citizens. Research has shown that youth who complete corps programs have higher rates of employment and earn more than their counterparts. Corps members also score higher on measures of personal and social responsibility and are more likely to earn a college degree.

Finally, not even taking into account the obvious financial benefits to society from protecting at-risk youth, corps generates $1.60 in immediate benefits for every $1 in cost. I encourage my colleagues to vote for passage of the Healthy Forest Youth Conservation Corps Act to enable local youth corps to work with the Federal Government to protect their communities. This is an opportunity to utilize cost-saving human resources to conserve, maintain, and protect Federal land. It is an investment in our environment and our country's youth.

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

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4838, 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.

NEW HOPE CEMETERY ASSOCIATION LAND CONVEYANCE

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (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.

The Clerk read as follows:

S. 1537

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

SECTION 1. CONVEYANCE OF PROPERTY IN POPE COUNTY, ARKANSAS.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 90 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the ''Secretary''), shall convey to the New Hope Cemetery Association (referred to in this section as the ''association''), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) that—

(1) is known as ''New Hope Cemetery Tract 6686c'';

(2) consists of approximately 1.1 acres; and

(3) is more particularly described as a portion of the SE ¼ of the NW ¼ of section 30, T. 11, R. 17W, Pope County, Arkansas.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—The association shall use the parcel conveyed under subsection (a) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the association and an opportunity for a hearing, makes a finding that the association has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the association fails to discontinue that use, title to the parcel shall, at the option of the Secretary, revert to the United States, to be administered by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

Mr. Speaker, S. 1537, introduced by Senator BLANCHE LINCOLN, would 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. The gentleman from Arkansas (Mr. BOOZMAN) introduced the companion bill in the House, but in the interest of time has requested the Senate bill be moved.

The existing cemetery is about 5 acres and nearing full capacity. The Forest Service initially tried to facilitate this trade without legislation, but the land was appraised for far more than the cemetery association could afford. The conveyance would not create additional management boundaries for the Forest Service, and the agency has no need for the land. As such, the Forest Service would convey the 1.1 acres for free. I urge Members to support this important measure.

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

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

Mr. Speaker, I would like to commend the sponsor of the bill, Senator LINCOLN, for bringing forth this vital legislation, and urge its favorable consideration.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1537.

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

A motion to reconsider was laid on the table.

CRAIG RECREATION LAND PURCHASE ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1778) to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

The Clerk read as follows:

S. 1778

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 ''Craig Recreation Land Purchase Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the City of Craig, Alaska.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. CONVEYANCE TO SECRETARY OF AGRICULTURE.

(a) IN GENERAL.—If, not later than 180 days after the date on which the City receives a copy of the appraisal conducted under subsection (c), the City offers to convey to the Secretary all right, title, and interest of the City in and to the parcels of non-Federal land described in subsection (b), the Secretary, subject to the availability of appropriations, shall—

(1) accept the offer; and

(2) on conveyance of the land to the Secretary, pay to the City an amount equal to the appraised value of the land, as determined under subsection (c).

(b) DESCRIPTION OF LAND.—The non-Federal land referred to in subsection (a) consists of—

(1) the municipal land identified on the map entitled ''Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property'' and dated August 2003;

(2) lots 1 and 1A, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 22,353 square feet of land; and

(3) the portion of Beach Road eastward of a projected line between the southwest corner of lot 1, Block 11, USS 1430 and the northwest corner of lot 1, Block 11–A, as identified on the City of Craig Subdivision Plat, Craig Tideland Addition, Patent # 155 (Inst. 69–982, Ketchikan Recording Office), dated April 21, 2004, consisting of approximately 4,700 square feet of land.

(c) APPRAISALS.—

(1) IN GENERAL.—Before conveying the land under subsection (a), the Secretary shall—

(A) conduct an appraisal of the land, in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions;

(ii) the Uniform Standards of Professional Appraisal Practice; and

(iii) Forest Service Appraisal Directives; and

(B) submit to the City a copy of the appraisal.

(2) PAYMENT OF COSTS.—

(A) CITY.—The City shall pay the costs of appraising the land described in subsection (b)(1).

(B) SECRETARY.—The Secretary shall pay the costs of appraising the land described in paragraphs (2) and (3) of subsection (b).

(d) MANAGEMENT.—Any land acquired under subsection (a) shall be—

(1) included in the Tongass National Forest; and

(2) administered by the Secretary in accordance with the laws (including regulations) and forest plan applicable to the Tongass National Forest.

SEC. 4. ACQUISITION OF LAND BY THE CITY OF CRAIG.

The amount received by the City under section 3(a)(2) shall be used by the City to acquire the Craig cannery property, as depicted on the map entitled ''Informational Map, Sunnahae Trail and Recreation Parcel and Craig Cannery Property'' and dated August 2003.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Forest Service for the reconstruction of the Sunnahae Trail, $250,000; and

(2) such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

Mr. Speaker, S. 1778, introduced by Senator LISA MURKOWSKI, would authorize a land conveyance between the Secretary of Agriculture and the City of Craig, Alaska. The gentleman from Florida (Mr. YOUNG) has the House companion bill.

This legislation authorizes the Secretary of Agriculture to acquire approximately 350 acres of land from the city of Craig, Alaska, for addition to the Tongass National Forest. The city would then use the proceeds to acquire 10 acres in downtown Craig to expand its harbor for commercial development. I urge Members to support this important measure.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1778.

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

A motion to reconsider was laid on the table.

ARAPAHO AND ROOSEVELT NATIONAL FORESTS LAND EXCHANGE ACT OF 2004

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2180) to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

The Clerk read as follows:

S. 2180

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 ''Arapaho and Roosevelt National Forests Land Exchange Act of 2004''.

SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

(a) CONVEYANCE BY CITY OF GOLDEN.—

(1) NON-FEDERAL LAND DESCRIBED.—The land exchange directed by this section shall proceed if, not later than 30 days after the date of enactment of this Act, the City of Golden, Colorado (referred to in this section as the ''City''), offers to convey title acceptable to the Secretary of Agriculture (referred to in this section as the ''Secretary'') to the following non-Federal land:

(A) Certain land located near the community of Evergreen in Park County, Colorado, comprising approximately 80 acres, as generally depicted on the map entitled ''Non-Federal Lands—Cub Creek Parcel'', dated June 2003.

(B) Certain land located near Argentine Pass in Clear Creek and Summit Counties, Colorado, comprising approximately 55.909 acres, as generally depicted on the map entitled ''Argentine Pass/Continental Divide Trail Lands'', dated September 2003.

(2) CONDITIONS OF CONVEYANCE.—

(A) VIDLER TUNNEL.—The conveyance of land under paragraph (1)(B) to the Secretary shall be subject to the continuing right of the City to permanently enter on, use, and occupy so much of the surface and subsurface of the land as reasonably is necessary to access, maintain, modify, or otherwise use the Vidler Tunnel to the same extent that the City would have had that right if the land had not been conveyed to the Secretary and remained in City ownership.

(B) ADVANCE APPROVAL.—The exercise of that right shall not require the City to secure any permit or other advance approval from the United States except to the extent that the City would have been required had the land not been conveyed to the Secretary and remained in City ownership.

(C) WITHDRAWAL.—On acquisition by the Secretary, the land is permanently withdrawn from all forms of entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) FEDERAL LAND DESCRIBED.—On receipt of title to the non-Federal land identified in subsection (a) that is acceptable to the Secretary, the Secretary shall simultaneously convey to the City all right, title, and interest of the United States in and to certain Federal land, comprising approximately 9.84 acres, as generally depicted on the map entitled ''Empire Federal Lands—Parcel 12'', dated June 2003.

(c) EQUAL VALUE EXCHANGE.—

(1) APPRAISAL.—

(A) IN GENERAL.—The values of the Federal land identified in subsection (b) and the non-Federal land identified in subsection (a)(1)(A) shall be determined by the Secretary through appraisals performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(B) DONATION.—Except as provided in paragraph (3), the conveyance of the non-Federal land identified in subsection (a)(1)(B) shall be considered a donation for all purposes of law.

(2) SURPLUS OF NON-FEDERAL VALUE.—If the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A) exceeds the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b), the values may be equalized by—

(A) reducing the acreage of the non-Federal land identified in subsection (a)(1)(A) to be conveyed, as determined appropriate and acceptable by the Secretary and the City;

(B) making a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(C) a combination of acreage reduction and cash equalization.

(3) SURPLUS OF FEDERAL VALUE.—

(A) APPRAISAL.—If the final appraised value (as approved by the Secretary) of the Federal land identified in subsection (b) exceeds the final appraised value (as approved by the Secretary) of the non-Federal land identified in subsection (a)(1)(A), the Secretary shall—

(i) conduct an appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice for the non-Federal land to be conveyed pursuant to subsection (a)(1)(B); and

(ii) use the value to the extent necessary to equalize the values of the non-Federal land identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

(B) CASH EQUALIZATION PAYMENT.—If the Secretary declines to accept the non-Federal land identified in subsection (a)(1)(B) for any reason or if the value of the Federal land described in subsection (b) exceeds the value of all of the non-Federal land described in subsection (a)(1), the City may make a cash equalization payment to the Secretary, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(d) EXCHANGE COSTS.—The City shall pay for—

(1) any necessary land surveys; and

(2) the costs of the appraisals, on approval of the appraiser and the issuance of appraisal instructions.

(e) TIMING AND INTERIM AUTHORIZATION.—

(1) TIMING.—It is the intent of Congress that the land exchange directed by this Act shall be completed not later than 180 days after the date of enactment of this Act.

(2) INTERIM AUTHORIZATION.—Pending completion of the land exchange, not later than 45 days after the date of enactment of this Act, subject to applicable law, the Secretary shall authorize the City to construct approximately 140 feet of water pipeline on or near the existing course of the Lindstrom ditch through the Federal land identified in subsection (b).

(f) ALTERNATIVE SALE AUTHORITY.—

(1) IN GENERAL.—If the land exchange is not completed for any reason, the Secretary shall sell the Federal land identified in subsection (b) to the City at the final appraised value of the land, as approved by the Secretary.

(2) SISK ACT.—Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

(g) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) INCORPORATION.—Land acquired by the United States under the land exchange shall become part of the Arapaho and Roosevelt National Forests.

(2) BOUNDARY.—The exterior boundary of the Forests is modified, without further action by the Secretary, as necessary to incorporate—

(A) the non-Federal land identified in subsection (a); and

(B) approximately an additional 80 acres as depicted on the map entitled ''Arapaho and Roosevelt National Forest Boundary Adjustment—Cub Creek'', dated June 2003.

(3) ADMINISTRATION.—On acquisition, land or interests in land acquired under this section shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(4) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Arapaho and Roosevelt National Forests (as adjusted by this subsection) shall be deemed to be the boundaries of the Forests as of January 1, 1965.

(h) TECHNICAL CORRECTIONS.—The Secretary, with the agreement of the City, may make technical corrections or correct clerical errors in the maps referred to in this section.

(i) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land identified in subsection (b) from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land identified in subsection (b) is withdrawn until the date of the conveyance of the Federal land to the City.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

Mr. RADANOVICH. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, occasionally on this floor we get to do win/win proposals, and this is clearly one of them.

This legislation is almost identical to legislation adopted by this Chamber earlier this session which I, the gentleman from Colorado (Mr. UDALL), and the gentleman from Colorado (Mr. TANCREDO) introduced. The difference is, this legislation actually is better. It is better in that it provides the United States Forest Service a 45-day window of opportunity to do their due diligence before the transfer actually takes place, and it also increases the acreage that the city of Golden is willing to trade to the government to accomplish this mission.

What is this mission? The mission is the city of Golden gets to increase its water storage capacity by 40 percent, which is critical to this small town in my district, in exchange for 10 acres to connect a pipeline to the reservoir, the storage reservoir. The United States Forest Service will acquire 80 acres near the city of Evergreen which will stay perpetually green, maintaining pristine wilderness, and also an additional 56 acres that includes a portion of the Continental Divide Trail. Yes, the Continental Divide, that place where east and west divide and a pristine wilderness trail that is critical not only to our State but to much of the Nation as we connect from our southern border clear to our northern border.

Mr. Speaker, it is a privilege to see this legislation before this body. It is a privilege to rise in support of it. I thank the gentleman from California (Mr. RADANOVICH).

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2180.

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

A motion to reconsider was laid on the table.

LITTLE BUTTE/BEAR CREEK SUBBASINS WATER FEASIBILITY ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3210) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon, as amended.

The Clerk read as follows:

H.R. 3210

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

SECTION 1. LITTLE BUTTE/BEAR CREEK SUBBASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the ''Little Butte/Bear Creek Subbasins Water Feasibility Act''.

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may conduct the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the ''Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project'', dated July 2, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

H.R. 3210, authored by the gentleman from Oregon (Mr. WALDEN), authorizes the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water management feasibility study and environmental impact statement to evaluate integrated water resource management and supply needs in the Little Butte/Bear Creek Subbasins near Medford, Oregon.

The underlying water management effort is a collaborative Federal/State/local partnership to improve the health of the subbasins and increase the water-use efficiency of the three local irrigation districts. The studies will be completed in accordance with a memorandum of agreement between the bureau and the city of Medford. Today, Congress has the opportunity to make this collaborative effort come true for these Oregon watersheds. I urge adoption of the bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3210, 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.

AUTHORIZING FEASIBILITY STUDY ON ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3597) to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3597

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

SECTION 1. STUDY AND REPORT.

(a) STUDY.—Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory

thereof and supplemental thereto, the Secretary of the Interior (referred to in this section as the ''Secretary''), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, instream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—Upon completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based upon the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 3597, authored by the gentleman from California (Mr. DOOLITTLE), authorizes the Secretary of the Interior to conduct a feasibility study on constructing a water storage project on Alder Creek in El Dorado County in California. The goal of the storage project is to provide water supplies during dry and critically dry years.

Like many areas in the western United States, El Dorado County faces constant water supply shortages. In light of drought and growing environment and human needs, many believe more traditional storage is needed. Supporters believe this project, in conjunction with water conservation measures, will augment the local water district's water supply, increase downstream habitat flows, and add hydropower resources. This project is an excellent example of a local agency working to secure safe and dependable water supplies for future generations. I urge adoption of the bill.

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

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

Mr. Speaker, we have no objection to the consideration of this measure.

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

Mr. RADANOVICH. 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 California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3597, 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.

SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4606

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Southern California Groundwater Remediation Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) GROUNDWATER REMEDIATION.—The term ''groundwater remediation'' means actions that are necessary to prevent, minimize, clean up, or mitigate damage to groundwater.

(2) LOCAL WATER AUTHORITY.—The term ''local water authority'' means a currently existing (on the the date of the enactment of this Act) public water district, public water utility, public water planning agency, municipality, or Indian Tribe located within the natural watershed of the Santa Ana River in the State of California.

(3) REMEDIATION FUND.—The term ''Remediation Fund'' means the Southern California Groundwater Remediation Fund established pursuant to section 3(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION.

(a) SOUTHERN CALIFORNIA GROUNDWATER REMEDIATION.—

(1) ESTABLISHMENT OF REMEDIATION FUND.—There shall be established within the Treasury of the United States an interest bearing account to be known as the ''Southern California Groundwater Remediation Fund''.

(2) ADMINISTRATION OF REMEDIATION FUND.—The Remediation Fund shall be administered by the Secretary, acting through the Bureau of Reclamation. The Secretary shall administer the Remediation Fund in cooperation with the local water authority.

(3) PURPOSES OF REMEDIATION FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), the amounts in the Remediation Fund, including interest accrued, shall be used by the Secretary to provide grants to the local water authority to reimburse the local water authority for the Federal share of the costs associated with designing and constructing groundwater remediation projects to be administered by the local water authority.

(B) COST-SHARING LIMITATION.—

(i) IN GENERAL.—The Secretary may not obligate any funds appropriated to the Remediation Fund in a fiscal year until the Secretary has deposited into the Remediation Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary for a groundwater remediation project are from funds provided to the Secretary for that project by the non-Federal interests.

(ii) NON-FEDERAL RESPONSIBILITY.—Each local water authority shall be responsible for providing the non-Federal amount required by clause (i) for projects under that local water authority. The State of California, local government agencies, and private entities may provide all or any portion of the non-Federal amount.

(iii) CREDITS TOWARD NON-FEDERAL SHARE.—For purposes of clause (ii), the Secretary shall credit the appropriate local water authority with the value of all prior expenditures by non-Federal interests made after January 1, 2000, that are compatible with the purposes of this section, including—

(I) all expenditures made by non-Federal interests to design and construct groundwater remediation projects, including expenditures associated with environmental analyses, and public involvement activities that were required to implement the groundwater remediation projects in compliance with applicable Federal and State laws; and

(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a groundwater remediation project.

(b) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) RELATIONSHIP TO OTHER ACTIVITIES.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate remediation and protection of the groundwater the natural watershed of the Santa Ana River in the State of California. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) FINANCIAL STATEMENTS AND AUDITS.—The Secretary shall ensure that all funds obligated and disbursed under this Act and expended by a local water authority, are accounted for in accordance with generally accepted accounting principles and are subjected to regular audits in accordance with applicable procedures, manuals, and circulars of the Department of the Interior and the Office of Management and Budget.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Remediation Fund $50,000,000. Such funds shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

Mr. Speaker, H.R. 4606, authored by the gentleman from California (Mr. BACA), authorizes the Secretary of the Interior to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California. H.R. 4606 establishes the Southern California Basins Groundwater Remediation Fund within the U.S. Treasury to provide Federal cost-share monies to remediate groundwater supplies in the Santa Ana watershed. I urge adoption of this measure.

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

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

Mr. Speaker, I would like to commend first the sponsor of the bill, the gentleman from California (Mr. BACA), for bringing forth this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I rise in support of H.R. 4606, the Southern California Groundwater Remediation Act.

First of all, I would like to thank our minority leader and our majority leader for supporting this bill. Our majority leader happened to go in the Inland Empire to see what is going on in that area, and I appreciate that.

The Southern California Groundwater Remediation Act is a long-term solution to helping cities in Southern California remove perchlorate from their drinking water. Perchlorate groundwater contamination has become a crisis in Southern California. This includes my hometown of Rialto in California.

Perchlorate is a main ingredient in rocket fuel. It has been found in drinking water supplies in 40 States, including California. It has been linked to thyroid damage and may be especially harmful to infants and developing fetuses and the 1.2 million women of childbearing age in San Bernardino, Riverside, and Orange counties.

It is also harmful to those with weak immune systems, such as seniors and AIDS patients. There is a legal and moral obligation to provide safe and healthy water. Today, these obligations are in jeopardy. The hard-working families in these areas are not at fault and should not have to pay for these problems. We must protect the consumer. Southern California, and particularly the Inland Empire, has been greatly impacted by perchlorate. Perchlorate has been detected in 182 sources in the counties served by the Santa Ana River watershed.

□ 1600

There is a perchlorate plume in the Inland Empire in California that is 7 miles long. It has affected 20 wells in San Bernardino County and jeopardized the water supplies of 500,000 residents. The economic burden on these communities is almost as much of a concern as the potential health effects.

H.R. 4606 authorizes $50 million in much-needed assistance. It is modeled after a successful program in the San Gabriel Basin in southern California that has also suffered from perchlorate-polluted water. And it is similar to H.R. 4459, a bill introduced by the gentleman from California (Mr. POMBO) that deals with perchlorate in northern California and passed this House last week.

I urge my colleagues to support this urgent bill for southern California so we can tell these communities that help is on the way. I would like to thank the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Mr. RAHALL), the gentleman from California (Mr. CALVERT), and the gentlewoman from California (Mrs. NAPOLITANO) for their support of H.R. 4606 and for moving this legislation forward quickly.

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

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4606, 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.

MONTANA WATER CONTRACTS EXTENSION ACT OF 2004

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5009) to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes.

The Clerk read as follows:

H.R. 5009

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 ''Montana Water Contracts Extension Act of 2004''.

SEC. 2. EXTENSION OF WATER CONTRACTS.

(a) AUTHORITY TO EXTEND.—The Secretary of the Interior may extend each of the water contracts listed in subsection (b) until the earlier of—

(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or

(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).

(b) EXTENDED CONTRACTS.—The water contracts referred to in subsection (a) are the following:

(1) Contract Number 14–06–600–2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.

(2) Contract Number 14–06–600–2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.

(3) Contract Number 14–06–600–8734, as amended, between the United States of America and the Toston Irrigation District for water service.

(4) Contract number 14–06–600–3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.

(5) Contract number 14–06–600–3593, as amended, between the United States and the East Bench Irrigation District for water service.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

H.R. 5009, authored by our distinguished committee colleague from Montana (Mr. REHBERG), extends five Bureau of Reclamation water service contracts with the city of Helena, Montana, and nearby irrigation districts for up to 2 years. These extensions are needed mainly to complete necessary Endangered Species Act studies on the Missouri River. Furthermore, these extensions will allow for continued water deliveries while providing more time for the Federal Government and contract holders to negotiate new long-term contracts.

I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, we have no objection to the consideration of this measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 5009.

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

A motion to reconsider was laid on the table.

AINSWORTH UNIT, NEBRASKA WATER CONTRACT EXTENSION

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5016) to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska.

The Clerk read as follows:

H.R. 5016

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

SECTION 1. AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior shall extend for the period described in subsection (b) the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, consisting of—

(1) the water service contract entered into by the Secretary of the Interior under—

(A) section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e));

(B) section 9(c) of the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(C) the Act of August 21, 1954 (68 Stat. 757, chapter 781); and

(D) the Act of May 18, 1956 (70 Stat. 160, chapter 285); and

(2) the water service contract for the set project located in Cherry, Brown, and Rock Counties, Nebraska, for the use of a part of the waters of the Snake River, a tributary of the Niobrara River.

(b) PERIOD OF EXTENSION.—The water service contract described in subsection (a) shall be extended for 4 years after the date on which the contract expires under the water service contract and law in existence before the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume. H.R. 5106, authored by the gentleman from Nebraska (Mr. OSBORNE), authorizes the extension of water service contracts between the Bureau of Reclamation and the Ainsworth Irrigation District for up to 4 years.

The district has requested the transfer of project facilities from Federal ownership to the district. The 4-year extension would allow the district ample time to complete the necessary actions for finalizing the facility transfer. The contract extension would provide for continued water service during the title transfer process under current terms and conditions.

Madam Speaker, I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, we have no objection to the consideration of this measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 5016.

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

A motion to reconsider was laid on the table.

LAKE NIGHTHORSE REDESIGNATION ACT

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2508) to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

The Clerk read as follows:

S. 2508

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

SECTION 1. RENAMING OF RESERVOIR.

The reservoir known as the ''Ridges Basin Reservoir'' located on Basin Creek, a tributary of the Animas River in Colorado, constructed under section 6(a) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (102 Stat. 2975; 114 Stat. 2763A–260), shall be known and designated as ''Lake Nighthorse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the reservoir referred to in section 1 shall be deemed to be a reference to Lake Nighthorse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume. S. 2508, authored by our distinguished Senate colleague, Mr. DOMENICI, redesignates the reservoir known as the Ridges Basin Reservoir located on Basin Creek, a tributary of the Animas River in Colorado, as Lake Nighthorse. The reservoir is being constructed as a provision of the Colorado Ute Indian Water Settlement Act of 1988. This designation will honor the service of retiring Senator Ben Nighthorse Campbell who was instrumental in the enactment of this act among many others important to the western United States during his long career in public service.

I urge the adoption of the bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, we have no objection to the favorable consideration of this measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 2508.

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

A motion to reconsider was laid on the table.

RECOGNIZING 60TH ANNIVERSARY OF BATTLE OF PELELIU

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 102) recognizing the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II and urging the Secretary of the Interior to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark and to establish commemorative programs honoring the Americans who fought there.

The Clerk read as follows:

H.J. RES. 102

Whereas on December 7, 1941, Imperial Japan bombed the United States fleet at Pearl Harbor, Hawaii, forcing the United States to declare war on Japan;

Whereas by 1944, United States victories in the Southwest and Central Pacific were bringing the war ever closer to Japan;

Whereas on September 15, 1944, after three days of naval gunfire, United States forces landed on the beaches of Peleliu, in the Palau islands chain, with the objective of capturing a vital air field;

Whereas the battle for Peleliu lasted more than two months, during which the United States suffered over 10,000 casualties, including an estimated 1,250 Marines and 540 soldiers killed in action;

Whereas George H.W. Bush, the 41st President of the United States, served as a torpedo-bomber pilot in the Navy and sank an armed Japanese trawler during Operation Snapshot, an operation to weaken Japenese defenses on Peleliu before United States Marines invaded the island in September 1944;

Whereas former Secretary of State George P. Shultz served as an officer in the Marine Corps detached to the 81st Infantry Division of the Army during the Battle of Peleliu and participated in the seizure, occupation, and defense of Angaur Island in the Palau islands chain;

Whereas on February 4, 1985, the Secretary of the Interior officially designated the Peleliu battlefield as the ''Peleliu Battlefield National Historic Landmark'';

Whereas the landmark plaque has been mounted and is now displayed in a prominent place in the village of Kloulkubed;

Whereas that designation as a national historic landmark attests not only to the significance of the battlefield site, but also to the integrity of the site;

Whereas the Peleliu battlefield today has considerable physical evidence of the battle, including about 100 identified individual cave sites occupied by the defending Japanese troops, as well as pill boxes, casemates, and large military equipment, both American and Japanese, which played a direct role in the battle for Peleliu; and

Whereas thanks to the sacrifices of members of the United States Armed Forces who participated in the Battle of Peleliu, the Republic of Palau today is an independent, democratic nation and a strong ally of the United States: Now, therefore, be it—

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes the bravery and courage of the members of the United States Armed Forces who participated in the Battle of Peleliu and of all veterans who fought in the Pacific Theater during World War II.

SEC. 2. The Congress urges the Secretary of the Interior—

(1) to recognize the year 2004 as the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II;

(2) to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark; and

(3) to establish commemorative programs honoring the Americans who fought at those sites.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

My colleague from Arizona (Mr. FLAKE) has introduced legislation that seeks to honor an important anniversary marking a battle that took place in the Pacific theater during World War II. His resolution, H.J. Res. 102, commemorates the 60th anniversary of the Battle of Peleliu in the Palau island chain.

In particular, H.J. Res. 102 will recognize the admirable bravery and courage that thousands of United States Armed Forces members displayed during this battle. The actual formal date of the 60th anniversary of the Battle of Peleliu was on September 15, 2004, which makes the movement of this legislation even more timely. The unique history our country has with this freely associated state is one that should not be forgotten and continues strongly to this day. I am thus hopeful that the House can support the gentleman from Arizona's bill so that we may show our support of the many U.S. Armed Forces veterans and families who help us to remember this important time in history.

I urge the adoption of this joint resolution.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Mr. FALEOMAVAEGA. Madam Speaker, I certainly would like to commend the gentlemen from California and the gentleman from Arizona for their management of this proposed legislation.

Madam Speaker, I rise today in support of H.J. Res. 102 as offered by my good friend from Arizona (Mr. FLAKE) in recognition of the 60th anniversary of the Battle of Peleliu and the end of Japanese control of the Pacific islands of Palau.

The Battle of Peleliu was one of the bloodiest in the Pacific theater in World War II, lasting more than 2 months, during which the United States suffered over 10,000 casualties. As a result of this momentous battle, Japanese control of Palau was ended. Today, Palau is an independent, democratic country and a strong ally of our Nation.

As we are all well aware, Madam Speaker, freedom is not free. The price of freedom was paid in blood, and we owe a great debt of gratitude to the American forces who sacrificed their lives at the Battle of Peleliu so that Palau can enjoy freedom today. By this resolution, we in Congress will acknowledge the bravery and courage shown by the members of the United States Armed Forces in the Battle of Peleliu and work to ensure their sacrifices are never forgotten.

Over the years, it was my privilege, along with my colleagues in the House, to personally visit and meet with the leaders of the Republic of Palau. Although small in numbers as far as population goes, the Republic of Palau along with the Republic of the Marshall Islands and the Federated States of Micronesia are a strategically important region for our national security and defense.

Madam Speaker, I urge my colleagues to support this legislation and, again, commend my good friend from Arizona (Mr. FLAKE) for sponsoring this proposed legislation.

Mr. RADANOVICH. Madam Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Madam Speaker, I thank the gentleman for yielding me this time and I thank the gentleman from American Samoa for speaking so eloquently on this bill. I appreciate the opportunity to offer this bill today, and I want to thank Chairman POMBO for including it on our floor action. The Battle of Peleliu, as mentioned by the gentleman from American Samoa, was one of the bloodiest in the Pacific theater in World War II. It lasted more than 2 months during which the United States suffered over 10,000 casualties, including an estimated 1,250 Marines and 540 soldiers killed in action in an attempt to capture a vital airfield from the Imperial Japanese.

In honor of that historic battle, myself, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) introduced this bill to recognize the service and sacrifice of the brave men who fought to end Imperial Japanese control over the Palau islands chain and all American servicemen who fought in the Pacific theater. It is important to note that one of those present at the battle was President George Herbert Walker Bush, the 41st President of the United States, who served as a torpedo bomber pilot in the Navy at that time. During the battle, then Navy Lieutenant Bush sank an armed Japanese trawler during operations to weaken Japanese defenses on Peleliu before United States Marines invaded the island. In addition, former Secretary of State George P. Shultz served as an officer in the Marine Corps detached to the 81st Infantry Division during the battle and participated in the seizure, occupation and defense of Angaur Island in the Palau islands chain.

In recognition of the battle's importance during the war, the Secretary of the Interior officially designated the Peleliu battlefield as the Peleliu Battlefield National Historic Landmark on February 4, 1985. The battlefield today has considerable evidence of the battle, including cave sites occupied by the defending Japanese troops as well as pillboxes, casemates and large military equipment.

This resolution urges the Secretary of the Interior to recognize the 60th anniversary of the Battle of Peleliu and work to protect the important sites of that battlefield. It is important to note that the battlefield is located in what is today the Republic of Palau. The Republic of Palau today is an independent, democratic nation with a strong ally in the United States. This is due in part to the sacrifices of the members of the United States Armed Forces who participated in the Battle of Peleliu 60 years ago. We honor them today.

Mr. GRIJALVA. Madam Speaker, I urge the favorable consideration of this measure.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the joint resolution, H.J. Res. 102.

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

A motion to reconsider was laid on the table.

RECOGNIZING 60TH ANNIVERSARY OF LIBERATION OF GUAM DURING WORLD WAR II

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 737) recognizing the 60th anniversary of the Liberation of Guam during World War II.

The Clerk read as follows:

H. RES. 737

Whereas Guam was attacked by Imperial Japanese Forces on December 8, 1941, at the same time that Pearl Harbor, Hawaii, was attacked, the different dates owing to the International Date Line;

Whereas Guam was subsequently invaded by enemy forces on December 10, 1941, and occupied until liberation on July 21, 1944;

Whereas the people of Guam suffered a brutal occupation due to their steadfast loyalty to the United States;

Whereas, during the 32-month occupation, the people of Guam suffered atrocities, such as forced labor, forced march, internment, injury, and death, including public executions; and

Whereas the loyalty and courage of the people of Guam during this period in American history serves as an inspiration for all Americans: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the year 2004 as the 60th anniversary of the Liberation of Guam during World War II;

(2) recognizes the extraordinary heroism and steadfast loyalty exhibited by the people of Guam who endured the occupation;

(3) recognizes the bravery and courage of all members of the United States Armed Forces who participated in the battle to recapture and liberate Guam, and all veterans who fought in the Pacific Theater during World War II;

(4) encourages the American people to commemorate the Liberation of Guam and to observe the anniversary of the significant battles of the Pacific Theater during World War II; and

(5) requests the Secretary of the Interior to establish commemorative programs honoring the liberators and the people of Guam at the War in the Pacific National Historical Park in Guam.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

The gentlewoman from Guam (Ms. BORDALLO) has introduced legislation that is poignant to the people of her territory and thousands of United States veterans. The United States' presence on this island traces back to 1898. But one of the most significant days that the U.S. and Guam share in our unique history is that of December 7, 1941. While the Japanese were attacking Pearl Harbor in Hawaii, they were also preparing an attack and invasion of Guam just hours later.

I urge the adoption of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Madam Speaker, I yield myself such time as I may consume. I would like to commend the sponsor of this bill, the gentlewoman from Guam (Ms. BORDALLO), for bringing forward this most important measure.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

(Ms. BORDALLO asked and was given permission to revise and extend her remarks.)

Ms. BORDALLO. Madam Speaker, I thank my good friend from Arizona for yielding me the time to speak briefly on this resolution which I introduced on July 21 to coincide with the 60th anniversary of the landing of U.S. forces on the beaches of Asan and Agat in southern Guam to liberate the only American community to have been occupied by a foreign power since the War of 1812.

□ 1615

As many of my colleagues realize, Guam was attacked by the Imperial Japanese forces only hours after Pearl Harbor was bombed. The people of Guam endured a 32-month occupation at the hands of the enemy. U.S. forces returned in 1944 to liberate the people of Guam, who remained extraordinarily loyal to the United States of America during the occupation.

The liberation of Guam is a defining moment in our history and in Guam's relationship with the United States. The valor of the U.S. forces who participated in the liberation of Guam is of special significance. The courage of our people of Guam who experienced the war is profoundly noteworthy. Theirs is a story which deserves to be told to all Americans. It is a story of great sacrifice and dignity.

As commemorations of the 60th anniversary of the end of the war in Pacific nears, I am pleased we were able to take the time today to bring recognition to Guam and Peleliu. I thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Mr. RAHALL), ranking member, for their support. I also extend thanks to the gentleman from Arizona (Mr. FLAKE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA), cochairmen of this resolution, for bringing recognition to these events. I thank the many other cosponsors and urge unanimous agreement.

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Madam Speaker, let me take this opportunity to thank the gentleman from Arizona and especially the gentlewoman from Guam for bringing forth this resolution.

Having visited that wonderful territory on two different occasions and having participated in a veterans' ceremony there in Guam, I know how very important it is that this piece of legislation commemorate the courage of the Guamanians in their struggle for freedom. I think it is certainly fitting and appropriate. I thank the gentleman for this opportunity to speak in favor of the measure.

Mr. RADANOVICH. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Madam Speaker, I thank the gentleman from California for yielding me this time.

I want to thank the gentlewoman from Guam (Ms. BORDALLO) for bringing this forward. We had the opportunity earlier this year to go to Guam and visit the beautiful island and stand on the overlook overlooking Asan Beach where over 12,000 Americans died retaking that island. As the gentlewoman from Guam (Ms. BORDALLO) said, the people of Guam were extremely loyal during that period of occupation and have been ever since. It is a pleasure to work with her on these issues of importance to people of Guam, and I urge agreement of this resolution.

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

Mr. GRIJALVA. Madam Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

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

Madam Speaker, I too would like to echo the sentiments expressed earlier by the gentleman from Arizona (Mr. FLAKE).

One wonders what does a landlocked State like Arizona have in common with the Island of Guam? I say it quite simply, Madam Speaker: We are all Americans. And I certainly commend the gentleman's sentiments and his remarks concerning the celebration of the 60th anniversary of the liberation of Guam as expressed by House Resolution 737 offered by the gentlewoman from Guam (Ms. BORDALLO).

I also would like to extend my appreciation to the gentleman from California for his management of this legislation. I thank the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) as chairman and the ranking member of the Committee on Resources. And I would be remiss if I did not also express my appreciation to the gentleman from Missouri (Mr. SKELTON), ranking member of the Committee on Armed Services for his compliments concerning this proposed legislation.

One of the things that I would like to share with my colleagues about this occasion, the 60th anniversary of the liberation of Guam, and it is one of the dark pages of our history, the fact that the U.S. nationals, Chamorros, who were militarily under the Imperial Japanese forces for some 2 years and 8 months, the question has always come to mind why these U.S. nationals who owed allegiance to the United States were never evacuated along with U.S. citizens before the oncoming forces of the Imperial Japanese naval and armed forces coming to this island? I need to remind my colleagues of the atrocities that were committed against these U.S. nationals, Chamorros. I recall rather distinctly our former colleague, the gentleman from Guam, Bob Underwood's relatives who were summarily executed by the Japanese in the occupation for 2 years and 8 months before, finally, U.S. forces came to liberate these loyal Americans.

I sincerely hope that perhaps we need to look at this with greater depth and appreciation of what the sacrifices that these U.S. nationals, who owed permanent allegiance to the United States, had suffered and why we never were able to evacuate them as we should have along with all the U.S. citizens who were on that island.

Again I want to thank the gentlewoman from Guam (Ms. BORDALLO) for proposing this resolution and thank the members of the Committee on Resources and the gentleman from California for his support of this legislation.

I urge my colleagues to agree to House Resolution 737.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and agree to the resolution, H. Res. 737.

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

A motion to reconsider was laid on the table.

COLORADO RIVER INDIAN RESERVATION BOUNDARY CORRECTION ACT

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2941) to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2941

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

SECTION 1. SHORT TITLE, FINDINGS, PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Colorado River Indian Reservation Boundary Correction Act''.

(b) FINDINGS.—Congress finds the following:

(1) The Act of March 3, 1865, created the Colorado River Indian Reservation (hereinafter ''Reservation'') along the Colorado River in Arizona and California for the ''Indians of said river and its tributaries''.

(2) In 1873 and 1874, President Grant issued Executive Orders to expand the Reservation southward and to secure its southern boundary at a clearly recognizable geographic location in order to forestall non-Indian encroachment and conflicts with the Indians of the Reservation.

(3) In 1875, Mr. Chandler Robbins surveyed the Reservation (hereinafter ''the Robbins Survey'') and delineated its new southern boundary, which included approximately 16,000 additional acres (hereinafter ''the La Paz lands''), as part of the Reservation.

(4) On May 15, 1876, President Grant issued an Executive Order that established the Reservation's boundaries as those delineated by the Robbins Survey.

(5) In 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office of the United States provided for a resurvey of the southern and southeastern areas of the Reservation.

(6) In 1914, the General Land Office accepted and approved a resurvey of the Reservation conducted by Mr. Guy Harrington in 1912 (hereinafter the ''Harrington Resurvey'') which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive Order in 1876.

(7) On November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Resurvey, and upon his recommendation on November 22, 1915, President Wilson issued Executive Order No. 2273 ''. . . to correct the error in location said southern boundary line . . .''—and thus effectively excluded the La Paz from the Reservation.

(8) Historical evidence compiled by the Department of the Interior supports the conclusion that the reason given by the Secretary in recommending that the President issue the 1915 Executive Order—''to correct an error in locating the southern boundary''—was itself in error and that the La Paz lands should not have been excluded from the Reservation.

(9) The La Paz lands continue to hold cultural and historical significance, as well as economic development potential, for the Colorado River Indian tribes, who have consistently sought to have such lands restored to their Reservation.

(c) PURPOSES.—The purposes of this Act are:

(1) To correct the south boundary of the Reservation by reestablishing such boundary as it was delineated by the Robbins Survey and affirmed by the Harrington Resurvey.

(2) To restore the La Paz lands to the Reservation, subject to valid existing rights under Federal law and to provide for continued reasonable public access for recreational purposes.

(3) To provide for the Secretary of the Interior to review and ensure that the corrected Reservation boundary is resurveyed and marked in conformance with the public system of surveys extended over such lands.

SEC. 2. BOUNDARY CORRECTION, RESTORATION, DESCRIPTION.

(a) BOUNDARY.—The boundaries of the Colorado River Indian Reservation are hereby declared to include those boundaries as were delineated by the Robbins Survey, affirmed by the Harrington Survey, and described as follows: The approximately 15,375 acres of Federal land described as ''Lands Identified for Transfer to Colorado River Indian Tribes'' on the map prepared by the Bureau of Land Management entitled ''H.R. 2981, Colorado River Indian Reservation Boundary Correction Act, and dated May 14, 2004'', (hereinafter referred to as the ''Map'')

(b) MAP.—The Map shall be available for review at the Bureau of Land Management.

(c) RESTORATION.—Subject to valid existing rights under Federal law, all right, title, and interest of the United States to those lands within the boundaries declared in subsection (a) that were excluded from the Colorado River Indian Reservation pursuant to Executive Order No. 2273 (November 22, 1915) are hereby restored to the Reservation and shall be held in trust by the United States on behalf of the Colorado River Indian Tribes.

(d) EXCLUSION.—Excluded from the lands restored to trust status on behalf of the Colorado River Indian Tribes that are described in subsection (a) are 2 parcels of Arizona State Lands identified on the Map as ''State Lands'' and totaling 320 acres and 520 acres.

SEC. 3. RESURVEY AND MARKING.

The Secretary of the Interior shall ensure that the boundary for the restored lands described in section 2(a) is surveyed and clearly marked in conformance with the public system of surveys extended over such lands.

SEC. 4. WATER RIGHTS.

The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source.

SEC. 5. PUBLIC ACCESS.

Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes.

SEC. 6. ECONOMIC ACTIVITY.

(a) IN GENERAL.—The restored lands described in section (2)(a) shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands described in section (2)(a).

(b) ADDITIONAL RIGHTS-OF-WAY.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if—

(1) the proposed right-of-way is necessary to the needs of the applicant;

(2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and

(3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities.

(c) FEES.—The fees charged for the renewal of any valid lease, easement, or right-of-way subject to this section shall not be greater than the current Federal rate for such a lease, easement, or right-of-way at the time of renewal if the holder has been in substantial compliance with all terms of the lease, easement, or right-of-way.

SEC. 7. GAMING.

Land taken into trust under this Act shall neither be considered to have been taken into trust for gaming nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

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

H.R. 2941, which is sponsored by the gentleman from Arizona (Mr. GRIJALVA), would restore about 16,000 acres of public lands in Arizona to the Colorado River Indian Reservation. Passage of this bill takes us one step closer to righting an historic injustice to the Colorado River Indian Tribes.

I urge passage of the bill, and I will now allow the author to further explain the bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, the Colorado River Indian Reservation Boundary Correction Act, as amended, will correct a longstanding injustice. In the early part of the 20th century, nearly 16,000 acres of land was stripped from the Colorado River Indian Tribes' reservation in response to heavy lobbying from a private mining company that wanted to open up a silver mine in the lands.

The Tribes were never provided with an opportunity to challenge the decision, nor were they ever compensated for the loss their lands. Subsequent reviews by the Department of Interior concluded that the lands were inappropriately removed from the reservation and should be returned to the Tribes.

This legislation does just that. Almost 90 years after the removal of the land, as amended, it would return that land to the reservation for the possibility of economic development, sacred and cultural importance to the Tribes. And it just strikes me that it is a very fitting bill. Just 1 week ago after the opening of the National Museum of the American Indian, which honors the indigenous people of this continent, this bill also honors our agreements and commitments to the native peoples of this land.

I wish to thank all my colleagues and the leadership within the Committee on Resources and the staff for making this bill a priority for passage this session.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 2941, 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.

BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2004

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3479) to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3479

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 ''Brown Tree Snake Control and Eradication Act of 2004''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BROWN TREE SNAKE.—The term ''brown tree snake'' means the species of the snake Boiga irregularis.

(2) COMPACT OF FREE ASSOCIATION.—The term ''Compact of Free Association'' means the Compacts of Free Association entered into between the United States and the governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as approved by and contained in Public Law 108–188 (117 Stat. 2720; 48 U.S.C. 1921 et seq.), and the Compact of Free Association entered into between the United States and the government of the Republic of Palau, as approved by and contained in Public Law 99–658 (100 Stat. 3673; 48 U.S.C. 1931 et seq.).

(3) FREELY ASSOCIATED STATES.—The term ''Freely Associated States'' means the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

(4) INTRODUCTION.—The terms ''introduce'' and ''introduction'' refer to the expansion of the brown tree snake outside of the range where this species is endemic.

(5) SECRETARY.—The term ''Secretary concerned'' means—

(A) the Secretary of the Interior, with respect to matters under the jurisdiction of the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to matters under the jurisdiction of the Department of Agriculture.

(6) SECRETARIES.—The term ''Secretaries'' means both the Secretary of the Interior and the Secretary of Agriculture.

(7) TECHNICAL WORKING GROUP.—The term ''Technical Working Group'' means Brown Tree Snake Technical Working Group established under the authority of section 1209 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4728).

(8) TERRITORIAL.—The term ''territorial'', when used to refer to a government, means the Government of Guam, the Government of American Samoa, and the Government of the Commonwealth of the Northern Mariana Islands, as well as autonomous agencies and instrumentalities of such a government.

(9) UNITED STATES.—The term ''United States'', when used in the geographic sense, means the several States, the District of Colombia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the United States Virgin Islands, any other possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. SENSE OF CONGRESS REGARDING NEED FOR IMPROVED AND BETTER COORDINATED FEDERAL POLICY FOR BROWN TREE SNAKE INTRODUCTION, CONTROL, AND ERADICATION.

It is the sense of Congress that there exists a need for improved and better coordinated control, interdiction, research, and eradication of the brown tree snake on the part of the United States and other interested parties.

SEC. 4. BROWN TREE SNAKE CONTROL, INTERDICTION, RESEARCH AND ERADICATION.

(a) FUNDING AUTHORITY.—Subject to the availability of appropriations to carry out this section, the Secretaries shall provide funds to support brown tree snake control, interdiction, research, and eradication efforts carried out by the Department of the Interior and the Department of Agriculture, other Federal agencies, States, territorial governments, local governments, and private sector entities. Funds may be provided through grants, contracts, reimbursable agreements, or other legal mechanisms available to the Secretaries for the transfer of Federal funds.

(b) AUTHORIZED ACTIVITIES.—Brown tree snake control, interdiction, research, and eradication efforts authorized by this section shall include at a minimum the following:

(1) Expansion of science-based eradication and control programs in Guam to reduce the undesirable impact of the brown tree snake in Guam and reduce the risk of the introduction or spread of any brown tree snake to areas in the United States and the Freely Associated States in which the brown tree snake is not established.

(2) Expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, and the Freely Associated States to assist the governments of such areas with detecting the brown tree snake and incipient brown tree snake populations.

(3) Expansion of efforts to protect and restore native wildlife in Guam or elsewhere in the United States damaged by the brown tree snake.

(4) Establishment and sustained funding for an Animal Plant and Health Inspection Service, Wildlife Services, Operations Program State Office located in Hawaii dedicated to vertebrate pest management in Hawaii and United States Pacific territories and possessions. Concurrently, the Animal Plant and Health Inspection Service, Wildlife Services Operations Program shall establish and sustain funding for a District Office in Guam dedicated to brown tree snake control and managed by the Hawaii State Office.

(5) Continuation, expansion, and provision of sustained research funding related to the brown tree snake, including research conducted at institutions located in areas affected by the brown tree snake.

(6) Continuation, expansion, and provision of sustained research funding for the Animal Plant and Health Inspection Service, Wildlife Services, National Wildlife Research Center of the Department of Agriculture related to the brown tree snake, including the establishment of a field station in Guam related to the control and eradication of the brown tree snake.

(7) Continuation, expansion, and provision of sustained research funding for the Fort Collins Science Center of the United States Geological Survey related to the brown tree snake, including the establishment of a field station in Guam related to the control and eradication of the brown tree snake.

(8) Expansion of long-term research into chemical, biological, and other control techniques that could lead to large-scale reduction of brown tree snake populations in Guam or other areas where the brown tree snake might become established.

(9) Expansion of short, medium, and long-term research, funded by all Federal agencies interested in or affected by the brown tree snake, into interdiction, detection, and early control of the brown tree snake.

(10) Provision of planning assistance for the construction or renovation of centralized multi-agency facilities in Guam to support Federal, State, and territorial brown tree snake control, interdiction, research and eradication efforts, including office space, laboratory space, animal holding facilities, and snake detector dog kennels.

(11) Provision of technical assistance to the Freely Associated States on matters related to the brown tree snake through the mechanisms contained within a Compact of Free Association dealing with environmental, quarantine, economic, and human health issues.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretaries to carry out this section (other than subsection (b)(10)) the following amounts:

(1) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, Operations, not more than $2,600,000 for each of the fiscal years 2006 through 2010.

(2) For activities conducted through the Animal and Plant Health Inspection Service, Wildlife Services, National Wildlife Research Center, Methods Development, not more than $1,500,000 for each of the fiscal years 2006 through 2010.

(3) For activities conducted through the Office of Insular Affairs, not more than $3,000,000 for each of the fiscal years 2006 through 2010.

(4) For activities conducted through the Fish and Wildlife Service, not more than $2,000,000 for each of the fiscal years 2006 through 2010.

(5) For activities conducted through the United States Geological Survey, Biological Resources, not more than $1,500,000 for each of the fiscal years 2006 through 2010.

(d) PLANNING ASSISTANCE.—There is authorized to be appropriated to the Secretary

of Agriculture and the Secretary of the Interior such amounts as may be required to carry out subsection (b)(10).

SEC. 5. ESTABLISHMENT OF QUARANTINE PROTOCOLS TO CONTROL THE INTRODUCTION AND SPREAD OF THE BROWN TREE SNAKE.

(a) ESTABLISHMENT OF QUARANTINE PROTOCOLS.—Not later than two years after the date of the enactment of this Act, but subject to the memorandum of agreement required by subsection (b) with respect to Guam, the Secretaries shall establish and cause to be operated at Federal expense a system of pre-departure quarantine protocols for cargo and other items being shipped from Guam and any other United States location where the brown tree snake may become established to prevent the introduction or spread of the brown tree snake. The Secretaries shall establish the quarantine protocols system by regulation. Under the quarantine protocols system, Federal quarantine, natural resource, conservation, and law enforcement officers and inspectors may enforce State and territorial laws regarding the illegal transportation, possession, or introduction of any brown tree snake.

(b) COOPERATION AND CONSULTATION.—The activities of the Secretaries under subsection (a) shall be carried out in cooperation with other Federal agencies and the appropriate State and territorial quarantine, natural resource, conservation, and law enforcement officers. In the case of Guam, as a precondition on the establishment of the system of pre-departure quarantine protocols under such subsection, the Secretaries shall enter into a memorandum of agreement with the Government of Guam to obtain the assistance and cooperation of the Government of Guam in establishing the system of pre-departure quarantine protocols.

(c) IMPLEMENTATION.—The system of pre-departure quarantine protocols to be established under subsection (a) shall not be implemented until funds are specifically appropriated for that purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the following amounts:

(1) To the Secretary of Agriculture, not more than $3,000,000 for each of the fiscal years 2006 through 2010.

(2) To the Secretary of the Interior, not more than $1,000,000 for each of the fiscal years 2006 through 2010.

SEC. 6. TREATMENT OF BROWN TREE SNAKES AS NONMAILABLE MATTER.

A brown tree snake constitutes nonmailable matter under section 3015 of title 39, United States Code.

SEC. 7. ROLE OF BROWN TREE SNAKE TECHNICAL WORKING GROUP.

(a) PURPOSE.—The Technical Working Group shall ensure that Federal, State, territorial, and local agency efforts concerning the brown tree snake are coordinated, effective, complementary, and cost-effective.

(b) SPECIFIC DUTIES AND ACTIVITIES.—The Technical Working Group shall be responsible for the following:

(1) The evaluation of Federal, State, and territorial activities, programs and policies that are likely to cause or promote the introduction or spread of the brown tree snake in the United States or the Freely Associated States and the preparation of recommendations for governmental actions to minimize the risk of introduction or further spread of the brown tree snake.

(2) The preparation of recommendations for activities, programs, and policies to reduce and eventually eradicate the brown tree snake in Guam or other areas within the United States where the snake may be established and the monitoring of the implementation of those activities, programs, and policies.

(3) Any revision of the Brown Tree Snake Control Plan, originally published in June 1996, which was prepared to coordinate Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake.

(c) REPORTING REQUIREMENT.—

(1) REPORT.—Subject to the availability of appropriations for this purpose, the Technical Working Group shall prepare a report describing—

(A) the progress made toward a large-scale population reduction or eradication of the brown tree snake in Guam or other sites that are infested by the brown tree snake;

(B) the interdiction and other activities required to reduce the risk of introduction of the brown tree snake or other nonindigenous snake species in Guam, the Commonwealth of the Northern Mariana Islands, Hawaii, American Samoa, and the Freely Associated States;

(C) the applied and basic research activities that will lead to improved brown tree snake control, interdiction and eradication efforts conducted by Federal, State, territorial, and local governments; and

(D) the programs and activities for brown tree snake control, interdiction, research and eradication that have been funded, implemented, and planned by Federal, State, territorial, and local governments.

(2) PRIORITIES.—The Technical Working Group shall include in the report a list of priorities, ranked in high, medium, and low categories, of Federal, State, territorial, and local efforts and programs in the following areas:

(A) Control.

(B) Interdiction.

(C) Research.

(D) Eradication.

(3) ASSESSMENTS.—Technical Working Group shall include in the report the following assessments:

(A) An assessment of current funding shortfalls and future funding needs to support Federal, State, territorial, and local government efforts to control, interdict, eradicate, or conduct research on the brown tree snake.

(B) An assessment of regulatory limitations that hinder Federal, State, territorial, and local government efforts to control, interdict, eradicate or conduct research on the brown tree snake.

(4) SUBMISSION.—Subject to the availability of appropriations for this purpose, the Technical Working Group shall submit the report to Congress not later than one year after the date of the enactment of this Act.

(d) MEETINGS.—The Technical Working Group shall meet at least annually.

(e) INCLUSION OF GUAM.—The Secretaries shall ensure that adequate representation is afforded to the government of Guam in the Technical Working Group.

(f) SUPPORT.—To the maximum extent practicable, the Secretaries shall make adequate resources available to the Technical Working Group to ensure its efficient and effective operation. The Secretaries may provide staff to assist the Technical Working Group in carrying out its duties and functions.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to each of the Secretaries not more than $450,000 for each of the fiscal years 2006 through 2010 to carry out this section.

SEC. 8. MISCELLANEOUS MATTERS.

(a) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated under this Act shall remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this Act for a fiscal year, the Secretaries may expend not more than five percent to cover the administrative expenses necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

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

Mr. RADANOVICH. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST), chairman of the Fisheries Conservation, Wildlife and Oceans Subcommittee of the Committee on Resources, to explain this legislation.

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

Madam Speaker, H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004, introduced by the distinguished gentlewoman from Guam (Ms. BORDALLO), has wide support.

This particular species, the brown tree snake, has been an awful nemesis on Guam for 50 years. It has virtually eradicated all of the local bird population that nests on the ground. It has been a problem for many decades, and the gentlewoman from Guam (Ms. BORDALLO) has been relentless to bring that to our attention to do something about it.

This particular bill offers a number of approaches and solutions. It broadens the level of Federal involvement and research in the brown tree snake programs in Guam. It requires the establishment of predeparture quarantine protocols so the brown tree snake does not go anywhere else in the South Pacific. It declares that the brown tree snake is nonmaleable, thank goodness for that; clarifies the role of the brown tree snake technical working group, and authorized an enhanced level of Federal financial assistance. So basically the gentlewoman from Guam (Ms. BORDALLO) has created a structure upon which it is possible, and many people thought it was impossible up to this point, to actually eradicate the brown tree snake.

In my district in Maryland we have had a problem with an invasive species called the nutria, a rat that weighs about 30 pounds, from South America. It has been a significant problem for about the same period of time, but because of a similar proposal structure, Federal involvement, State involvement, and so on, we have neared the time where we are eradicating that particular species.

So I want to compliment the gentlewoman from Guam. We will work with her until the day that there are no brown tree snakes in Guam at all.

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

I would like to commend the gentlewoman from Guam (Ms. BORDALLO),

the sponsor of this bill, for bringing forth this very important legislation.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

(Ms. BORDALLO asked and was given permission to revise and extend her remarks.)

Ms. BORDALLO. Madam Speaker, first I would like to thank the gentleman from Maryland (Chairman GILCHREST) for his very kind words in support of this measure.

As this is the last in a number of the Committee on Resources' bills to come to the floor today, I want to also take the opportunity to thank the gentleman from California (Chairman POMBO) and the gentleman from West Virginia (Mr. RAHALL), ranking member, for the largely bipartisan and cooperative nature by which they conduct the committee's business. Such has been my experience as a freshman, and I am very proud to serve on the committee with them.

I want to especially thank them and their staff for their assistance with this bill. The Brown Tree Snake Control and Eradication Act of 2004 will bring more Federal attention and cooperative support for dealing with the critical ecological threat in the Pacific region, the brown tree snake, a harmful invasive species. The cooperation directed in this legislation will actually save the Federal Government money by coordinating Federal activities more efficiently and focusing on the goal of eradication.

H.R. 3479 has been a joint and collaborative effort between myself and the gentleman from Hawaii (Mr. CASE) and the gentleman from Hawaii (Mr. ABERCROMBIE). Together we have worked successfully with stakeholders in our district to produce a good bill.

Again, I want to thank the gentleman from Maryland (Chairman GILCHREST) for his support and the gentleman from New Jersey (Mr. PALLONE), ranking member, and their staff, for their support and due diligence in this process.

□ 1630

I also want to extend my appreciation to the gentleman from Virginia (Chairman GOODLATTE); the ranking member, the gentleman from Texas (Mr. STENHOLM); and their staff for working with us on the provisions under the Committee on Agriculture's jurisdiction.

H.R. 3479 recognizes that a coordinated effort on the part of the public and private sectors with requisite accountability is essential to the successful prevention, control, and management of the brown tree snake. With the support of the House today, we can get the direction and resources needed to step up the level of protection for the ecological and economic interests of Guam, the Northern Marianas Islands, Hawaii, and the mainland of the United States.

Mr. CASE. Madam Speaker, I urge my colleagues to support House passage of H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004.

Last November I was pleased to join with my colleagues from Guam, Congresswoman MADELEINE Z. BORDALLO, and Congressman NEIL ABERCROMBIE from Hawaii, in introducing this important legislation.

This bill proposes a long-overdue comprehensive approach, through the Departments of Interior and Agriculture, to eradicate the brown tree snake in Guam and to prevent its introduction to jurisdictions in the Pacific, including my home state of Hawaii. There are other Federal agencies, particularly the Departments of Defense and Homeland Security, that are crucial to our efforts, and I am fully supportive of resources and funding expended by or given to these agencies in combating the brown tree snake.

I greatly appreciate the assistance of my colleagues on the House Resources and Agriculture Committees for their hard work on bringing this bill to the floor: House Resources Committee Chairman RICHARD POMBO and Ranking Member NICK RAHALL; House Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans Chairman WAYNE GILCHREST and Ranking Member FRANK PALLONE; House Agriculture Committee Chairman BOB GOODLATTE and Ranking Member CHARLES STENHOLM; and House Agriculture Subcommittee on Livestock and Horticulture Chairman ROBIN HAYES and Ranking Member MIKE ROSS.

The devastating ecological, economic, and human health impacts of the brown tree snake have been long known among the affected jurisdictions in the Pacific and the federal, state, and territorial agencies charged with implementing brown tree snake preventative control and eradication programs.

However, it is clear that unless we address this challenge with a long-term, coordinated, and comprehensive approach, Guam will continue to struggle with the adverse impacts of the brown tree snake, and we in Hawaii will increasingly risk the introduction of the snake into our fragile environment. A total of eight brown tree snakes have been found live or dead in Hawaii since the mid-1980s. All have been associated with the movement of civilian and military vehicles or cargo from Guam.

Most recently, I joined my colleagues from the Hawaii Congressional delegation in expressing our concerns to and seeking funding assistance from Secretary of Defense Donald Rumsfeld in response to the proposed reduction in inspection and trapping services at and around Guam military and civilian ports by up to 50 percent this November. These operations, which are run by APHIS Wildlife Services, annually interdict 6,000–7,000 snakes. Since the DOD benefits significantly from such operations, and is expected to increase its own presence in activities and movements to and from Guam as much as three times in the next five years, it is imperative that all military operational expansion and construction planning on Guam should include brown tree snake control and interdiction design measures and protocols. DOD should consider such funding as part of its base operational and readiness plans.

As background, the brown tree snake was accidentally introduced into Guam in the late 1940s and 1950s, likely via U.S. military cargo, from an area in the Pacific where the snakes are native. Unfortunately, because Guam had no natural predator but abundant prey, the brown tree snake population spread throughout the island.

Because the brown tree snake's preferred prey is birds, it is directly responsible for the extinction of 9 of 134 native forest birds and 3 of 12 native lizards on Guam. Economically, the snakes have caused more than 1,600 power outages over a 20-year period in Guam, costing the island $4.5 million per year without considering their impact on transformers, and damages inside electrical substations. The disruptions affect all aspects of everyday life in homes and work, as well as for the government and the business community.

In Hawaii, the brown tree snake represents one of the greatest terrestrial ecological threats due to its potential impact on our endangered bird species, which are found nowhere else on earth. As a result of Hawaii's geographical isolation and lush environment, there were more than 140 endemic bird species in the islands prior to human contact. Today, among the remaining 71 endemic forms, 30 are federally listed as endangered, and 15 of these are on the brink of extinction. Any negative impact on our native bird species in Hawaii will inevitably impact our native flora as well. Hawaii has the highest known number of endemic terrestrial plants of any major island group.

Economically, a University of Hawaii study estimates that the introduction of the brown tree snakes to Hawaii will cause between $28 million and $450 million annually in electrical power outages. This does not include the potential devastation to our agriculture industry. In Guam, the brown tree snake has contributed to the decline in production of the island's agriculture industry, particularly the commercial poultry industry, because the snakes eat eggs and chicks. The snake has also impacted the growing of fruits and vegetables because insects that are no longer naturally controlled by birds and lizards inflict increased damage on crops.

To address the brown tree snake problem, a Brown Tree Snake Control Committee was established subsequent to provisions in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A multi-agency Memorandum of Agreement on Brown Tree Snake Control was also signed in 1992 and renewed in 1999. However, it expired in March of this year.

The Brown Tree Snake Control and Eradication Act will statutorily authorize a process to ensure the ongoing activities of federal agencies, enhance their effectiveness, provide the necessary resources from agencies actually conducting the work, and strengthen the coordination between federal and regional stakeholder in Hawaii and the Pacific in a more systemic fashion.

Among the authorized activities is the expansion of science-based eradication and control programs in Guam; the expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, and Hawaii; the expansion of efforts to protect and restore native wildlife in Guam or elsewhere damaged by the brown tree snake; continuation and expansion of sustained research funding from the Animal Plant and Health Inspection Service (APHIS), Wildlife Services, and National Wildlife Research Center, including the establishment of

an APHIS, Wildlife Services, Operations Program State Office located in Hawaii; and the expansion of long-term research into chemical and biological control techniques that could lead to large-scale reduction of brown tree snake populations in Guam.

H.R 3497 is a product of collaboration between my office, the offices of Congresswoman BORDALLO and Congressman ABERCROMBIE, and the key Federal, State, and territorial stakeholders in the region. While the brown tree snake is just one of the more serious of many invasive species threats to Hawaii, the mechanisms strengthened and established under H.R. 3479 can serve as an exemplary model for addressing other invasive species issues, not just in Hawaii, but in our whole country.

The bill is supported by the Hawaii Department of Agriculture, the Hawaii Department of Land and Natural Resources, the Hawaii Invasive Species Council, the Nature Conservancy of Hawaii, the Coordinating Group on Alien Species, and others. Such coordinated support in Hawaii is illustrative of the seriousness that we take this issue and the assistance the federal government can anticipate receiving after enactment of this bill. Hawaii's stakeholders will not be silent and passive partners in this effort.

I am specially proud about the establishment of the Hawaii Invasive Species Council, which includes key State, county and Federal head officials in Hawaii, by legislation approved by the 2003 Hawaii State Legislature and Hawaii Governor Linda Lingle.

I understand that Hawaii is now only one of seven states in the country to establish such a council in addressing invasive species prevention and response measures at the State level.

Again, I urge my colleagues to support this important legislation.

Mr. ABERCROMBIE. Madam Speaker, I rise today in support of H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004. This measure will not only ensure continued security for Hawaii and Guam, but the entire Pacific region.

The Hawai'i Biological Survey has documented that an average of 177 alien species arrive in the State of Hawai'i each year. Out of all the possible alien plants and animals that could make their way to the Hawaiian Islands, one of the most feared is the brown tree snake.

The brown tree snake arrived in Guam on military materiel transport from the Solomon Islands after World War II. Because Guam has no natural predator for the brown tree snake, the snakes have been able to flourish and have been recorded as high as 10,000 snakes per acre. The brown tree snake is blamed for the extinction of 9 out of 11 bird species native to Guam. These snakes also cause frequent and costly power outages and are known to bite humans. Like Guam, Hawaii has no native snakes and no natural predators for snakes. Only one pregnant brown tree snake needs to reach Hawaii in order for the State to experience the same catastrophic consequences as Guam.

Wildlife Services under the Animal and Plant Health Inspection Service in the Department of Agriculture provides brown tree snake control on Guam by inspecting outgoing military and civilian cargo and providing trapping services at Guam's ports. These services interdict 6,000 to 7,000 snakes annually and have proved to be very successful in keeping the brown tree snake out of Hawaii.

For the past 10 years, the funding for these services has remained fixed. The program was able to make up for inflation and increasing costs by stopgap measures that have enabled them to continue services. However, this is no longer possible. Unforeseen vehicle repair or replacement costs, critical travel associated with program delivery, required training for staff, increased costs of operations and growing containment responsibilities are forcing significant reductions in operations. Compounding the problem, Wildlife Services has been informed by Anderson Air Force Base that it will have to begin to pay for in-kind services that have been provided to the program at no cost since 1994. To compensate for this additional unanticipated financial burden, further reductions in staffing are anticipated in early fiscal year 2005.

H.R. 3479 would begin to resolve these problems by recognizing the seriousness of the threat posed by the brown tree snake. This legislation authorizes the Departments of Agriculture and Interior to fund brown tree snake interdiction and control efforts and provide grants for these efforts. Just as important, this measure would support research efforts to control and eventually eradicate this harmful species from Guam. Current funding does not allow for in depth research that could lead to less labor intensive solutions than the current bait and trap method. This legislation also requires the establishment of pre-departure quarantine protocols for persons and cargo traveling from Guam. This will ensure that this species is not able to spread to other Pacific destinations.

Madam Speaker, this legislation is being considered at a crucial point in time. I urge my colleagues to support this bill and thank Chairman POMBO and Ranking Member RAHALL for their continued efforts to address the problems of the distant Pacific. I would also like to thank Congresswoman BORDALLO and her staff. Without the effort of all of these parties, this legislation would not be before the House today.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3479, 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.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. SAXTON. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MS. PELOSI

Ms. PELOSI. Madam Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. Pelosi moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4200 be instructed to agree to the provisions contained in title XXXIV of the Senate amendment (relating to the enhancement of local law enforcement and the prohibition of hate crimes).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from California (Ms. PELOSI) and the gentleman from Florida (Mr. FEENEY) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today to offer a motion to instruct conferees to the defense authorization bill to agree to the hate crimes prevention provisions contained in the Senate bill.

I thank the gentleman from Missouri (Mr. SKELTON), our ranking member on the Committee on Armed Services, for his commitment to including hate crimes prevention provisions in this bill.

Before I speak to the motion, I want to speak to the excellent credentials of the gentleman from Missouri (Mr. SKELTON). Every man and woman in uniform in our country, whether regular service or Reserves or National Guard, owes a deep debt of gratitude, as does our entire country, for his commitment to the national security of our country and to his commitment for the well-being of our troops in the United States and certainly in harm's way.

I have seen firsthand the respect that they have for him, both at Whiteman Air Force Base in Missouri, in his own district, and in Iraq and Afghanistan, where we have seen them in the theater of war. I say to the gentleman from Missouri (Mr. SKELTON), thank you for your magnificent leadership and service to our country.

Madam Speaker, hate crimes have no place in America. I think we can all agree to that. All Americans have a right to feel safe in their communities. Yet FBI statistics continue to demonstrate a high level of hate crimes in our country. Federal hate crimes prevention legislation is the right thing to do, and it is long overdue.

Some opponents argue that there is no need for Federal hate crimes prevention legislation because assault and

murder are already crimes. However, when individuals are targeted for violence because of their race, sexual orientation, religion, national origin, gender or disability, the assailant intends to send a message to all members of that community. The message is, you are not welcome.

When violence is visited upon people because of who they are, the color of their skin, how they worship and who they love, we all suffer. When this happens to one of us, it happens to all of us.

We all will remember very sadly the brutal murders of James Byrd in Texas, Matthew Shepard in Wyoming, Waqar Hasan in Texas, and Gwen Araujo in my own State of California.

Current law limits Federal jurisdictions to ''federally protected'' activities such as voting and does not permit Federal jurisdiction over violent crimes motivated by bias against the victim's sexual orientation, gender, or disability.

The gentleman from Michigan (Mr. CONYERS), our distinguished ranking member on the Committee on the Judiciary and a great leader in civil liberties and protecting the American people and public safety, has introduced H.R. 4204, the Local Law Enforcement Hate Crimes Act, to expand Federal jurisdiction to include hate crimes. Along with 175 of my colleagues, I am proud to cosponsor his bill; and I commend the gentleman from Michigan (Mr. CONYERS) for his untiring leadership and commitment to this and so many other issues. Thank you for your leadership.

When State and local law enforcement do not have the capacity to prosecute hate crimes, this bill would permit Federal prosecution regardless of whether a federally protected activity is involved.

This legislation would increase the ability of local, State, and Federal law enforcement agencies to solve and prevent a wide range of violent hate crimes. Numerous law enforcement organizations, including the International Association of Chiefs of Police, support the need for Federal hate crimes legislation.

Four years ago, both Houses of Congress supported the hate crimes prevention provisions on a bipartisan basis as part of the defense authorization bill, only to see those provisions stripped by the conference committee. We cannot let that happen again.

This June the Senate, the other body, adopted an amendment to include language identical to H.R. 4204 in its version of the defense authorization bill on a strong bipartisan vote.

Today we have the opportunity to put the House on record in favor of Federal hate crimes prevention provisions. We must not allow the provisions to be stripped in conference again. We must continue to fight for justice, hope, and freedom by ensuring that hate crimes prevention provisions are enacted into law. That would be a true and fitting memorial to James Byrd, Matthew Shepard, Waqar Hasan, Gwen Araujo and so many others who have died because of ignorance and intolerance.

I urge my colleagues to support this motion to instruct.

Madam Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS) and ask unanimous consent that he control said time.

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

There was no objection.

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

Madam Speaker, whatever any one of us thinks about the merits of the specific language, it does not belong in a defense authorization bill. If these provisions were introduced as a free-standing piece of legislation, they would have been referred to the Committee on the Judiciary; and that is where they should appropriately be dealt with, not in a conference on a wholly unrelated topic.

Second and more importantly, let me address the merits of the proposal before us. All of us, as the gentlewoman from California pointed out, all of us deplore hate crimes. The perpetrators of such crimes deserve the harshest punishment under the law as the law allows. The evidence indicates that they are receiving such punishments under the current law in a wide majority of the cases.

However, this really is misnamed as a hate crimes piece of legislation. What it ought to be called is an unequal protection proposal, because what this bill basically does is to say that the dignity and the property and the person and the life of some Americans gets less protection under the law if we pass this amendment than other American lives. That sort of unequal treatment is exactly what the 14th amendment was designed to prohibit, in my view.

I completely understand the positions of those who want this legislation, but I fear they have not fully thought through the potential consequences of adopting this legislation.

When someone is murdered because the killer does not like the color of their skin, that killer deserves harsh punishment; but the killer deserves it because the victim is a human, not because of the killer's hateful thoughts.

We must honor the victim's humanity and do justice, irrespective of the race, gender, the sexual orientation, or any other given trait. It is the victim's humanity that matters here. Nothing that the killer has thought about the victim can alter the value of that human's life which has been taken.

This proposal does not target hate crimes; it just specifies certain types of hate crimes for special treatment. I think we go down the wrong road here when we value certain lives differently because of race, gender or other factors, and believe that the hate crimes provisions tend to do that. That road leads to all sorts of mischief that I do not like to think the well-meaning sponsors of this proposal intend to accomplish.

So I ask that we continue to honor the value that all human life is precious, and value it no matter what the person's skin color is, no matter what some vicious criminal thought of that person's skin color.

Justice ultimately ought to turn on the fundamental worth of the human being and not the thoughts of the specific criminal. Article XIV of our Constitution guarantees equal protection under the law. But in this regard, I would ask what about other groups that have not been targeted for special protection under this piece of legislation? What about children? What about senior citizens? What about the infirm, disabled, teachers, seniors, mailmen, women, veterans, and even public servants who may be the victims of the ultimate hate crime, terrorism?

The same spirit that hate compels a criminal to commit a crime due to one's race, gender or religious persuasion also may compel him or her to commit a crime against anyone in these and many other groups. Yet these others are excluded from protection. Under this hate crime proposal, they are protected and they are treated unequally.

So we oppose the inclusion of these provisions. The so-called hate crimes provision is a political feel-good statement that is anti-prosecution and anti-law enforcement and makes it less likely that violent criminals will ultimately be convicted and punished.

The bill will make it easier for criminals to create a shadow of a doubt and evade conviction for certain types of crimes if the prosecutor decides to roll the dice and include the necessity to prove the burden of intent based on race or the other special categories set out in the bill. It increases the burden on the prosecution to prove one additional element, and it increases the opportunities that criminals and their defense attorneys will have to create that certain shadow of a doubt and ultimately escape justice altogether.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield such time as he may consume to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

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

Mr. SKELTON. Madam Speaker, I thank the gentleman from Michigan for yielding me time.

I do rise in support of this motion to instruct conferees on the National Defense Authorization Act.

Madam Speaker, our Nation has seen far too many cases of violent criminal acts related to prejudice, bigotry, and

intolerance. The Federal Bureau of Investigation has reported a significant number of cases involving violence directed against a member of a religious, ethnic, disabled, race-based, or gender-specific association. Statistics show that nearly 8,000 acts of violence have occurred annually since 1994. Society cannot and should not tolerate the cowardly, mean-spirited, and hateful acts that we call hate crimes.

Indeed, such hate-based acts have a deeper impact on society than many other crimes. They are injurious to the community, and they are often committed by offenders affiliated with large extended groups operating across State lines.

I think all of us at one point or another in our lives have seen the ugly face of prejudice, bigotry, and discrimination. When hatred is a motivating factor in the commission of a crime, I believe it should be an aggravating factor that is taken into account in the sentencing process.

Moreover, Madam Speaker, as a former trial lawyer and State prosecuting attorney, I do not view the Senate proposal lightly. Although the ability to prosecute crimes against individuals exists today, the Senate bill would provide prosecutors with more tools with which to fight crimes and in which bias, prejudice, and discrimination are motivating factors.

The Senate bill is narrowly tailored. A hate crime would occur only if the person charged deliberately committed or tried to commit an act of violence resulting in bodily injury to another person. In addition, the Senate language only speaks to crimes involving the use of fire, a firearm, an explosive, or an incendiary device. So this is not a case which would criminalize free speech or would address a broad range of conduct.

Madam Speaker, agreeing to the Senate language is simply the right thing to do, and I urge my colleagues to support this instruction.

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

Madam Speaker, I appreciate the esteemed gentleman from Missouri's comments. I happen to agree that in terms of sentencing, there ought to be consideration of certain aggravating factors like hate and bigotry, as he expressed.

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I believe that under the current Federal sentencing guidelines for virtually all, if not all Federal crimes, that is exactly what the guidelines permit now, but they do not create the burden of a separate element.

Madam Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman for yielding me this time.

This is an issue, I think, that moves some of us to come to the floor to talk about it, because it sends us down a path that is awfully hard to get back from.

One of the questions that we need to answer here before this Congress is, what is a hate crime? And that question seems real simple, but the answer to that question is almost always, any crime committed against any individual, especially a violent crime, which requires a certain amount of hatred or jealously, a certain kind of emotional attachment or emotional reaction from the perpetrator towards the victim. I do not know how you could assault or murder or rape someone without having anger or hatred or fury in you.

So I will say that any of these crimes here that we are talking about with regard to this are all hate crimes.

The question is, what is not a hate crime? I do not have much of an answer to that, unless it be a crime against property rather than people, but I do not believe you can commit a crime against people and not feel an emotional effect one way or another on their personality.

So we have two significant cases here that were mentioned by the gentlewoman, the Minority Leader, the James Byrd case and the Matthew Shepard case. In both of those cases, there were murders committed in a most violent, hateful fashion. Also, there have been many other murders committed in this country in a violent, hateful fashion, but the perpetrators of those crimes, the murderers of James Byrd and Matthew Shepard, were quickly apprehended, prosecuted and sentenced to death. What more would we choose to do to people who have committed hate crimes than sentence them to the ultimate penalty, which I believe they deserve most vigorously?

Another misconception that I believe is here is that the list of those categories that would be used to define hate crimes, that list is: actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person. That list sounds suspiciously like title VII of the Civil Rights Act, except it has been amended in a couple of places. In one place, it has replaced the word ''sex'' with the word ''gender.'' Gender is what you think you are; sex is what you physiologically are. So only the person who is the bearer of gender can know what their gender is, and anything else that can be an independently verified, immutable characteristic is what sex is. Sexual orientation is another thing. That is self-identifying.

So we would put people in jail or potentially execute them for crimes committed when they may not even know the circumstances. Those two words are not legally sustainable, and they send us down a very dangerous path.

There is a question of federalism. The States are to be reserved everything that is not specifically designed in the Constitution, and yet we are reaching into the States' province here and stepping across them and saying, but we know better here in Congress, better than you know in Wyoming, better than you know in Texas, better than you know in Iowa. I believe it is better off left up to the States. But I would oppose hate crimes in the States because they are discriminatory in their nature. They discriminate in favor of certain groups and against other groups, and sometimes, they backlash.

If we look statistically, and I have seen some of those in my internet blog searches, about how the hate crimes have backlashed, and there are more Caucasians now, American whites, that are using hate crimes against minorities. Where you have a prosecutor who is willing to go down that path, you are going to see this happen. There will also be the backlash on the prosecutor. When that prosecutor chooses to prosecute a crime and call it a hate crime, some of the people in the public will say, no, that is racist, that is bigoted for one reason or another. Or, if he chooses not to, there is going to be the challenge that he decided not to for discriminatory reasons. It opens up a whole other world here.

I would just boil it down to this, that we are all equal under the law. This Nation is a nation of equal rights for individuals. When God created us, he did not draw a distinction between us, and neither should we in our Federal law.

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

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

Mr. CONYERS. Madam Speaker, this is the only civil rights measure that we will be considering in this Congress, and it is the first civil rights measure, as distinguished from voter rights, that we have handled on this floor since 1968 when 18 U.S.C. 242 was amended.

Please, let us understand that we have witnessed a dramatic increase in hate-motivated violence. The definitions are very clear. To my friends who have wondered what a hate crime is, there are 8,000 hate crimes each year.

I want my colleagues to know that we have already approved of this. The House has voted on this measure. The Senate has voted on this measure. And now, we are doing the same thing again.

For all of my colleagues who want to know where law enforcement stands on this, please know that the Police Foundation endorses the measure. The National Sheriff's Association endorses this measure. The International Association of Chiefs of Police endorses the measure. The Police Executive Research Forum likewise. So we have law enforcement realizing that we need a comprehensive law banning hate crimes, and what this bill essentially does is modify the Federal nexus that is connected with it.

Please, let us understand that this is the only opportunity we will have to go on record to show that we want to assist States in prosecuting their hate

crimes by re-endorsing and re-supporting this measure.

Madam Speaker, I reserve the balance of my time.

Mr. FEENEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Madam Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this motion by the gentlewoman from California. I believe sincerely all violent crimes are hate crimes regardless of race or any other classification.

My concern is, today, that as we begin to move down this road, what will happen to freedom of speech in this country? Some people might say, well, you are missing the big picture. Maybe I am, but I can tell my colleagues what has happened in Sweden already. A minister who spoke from the Bible and talked about certain lifestyles not being acceptable in the Bible spent a month in jail for speaking out and preaching.

I believe in compassion. I believe in respect. I believe in the civil rights of each and every one of us who lives in this great Nation. But my concern sincerely is that we might have it one day, as they do in other countries that have outlawed the use of Roman Catholic teachings and also Islamic teachings about certain lifestyles that are not acceptable based on their religion, and I would hate to see that happen in this great Nation.

Yes, I want to see every crime that is committed against any American, no matter what their lifestyle is, I want to see that person who committed the crime to go to jail. I believe in the death penalty, as my voting record would say. But I am saying here today, if we pass this motion and send this back, the Senate language, we will begin to go down the road of where one day, I am afraid; it has happened in Canada, it has happened in Sweden. I am afraid, one day, what we will see happen in this country is that certain religious leaders will have their free speech threatened, and I do not want to see that happen.

Mr. CONYERS. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Madam Speaker, I am torn. I cannot decide which argument has less merit. There was the gentleman from Florida who said, do not take it up on this bill; it is in the jurisdiction of the Committee on the Judiciary. It is in the dungeon of the Committee on the Judiciary. I envy the gentleman's ability to say that without smiling. This bill is introduced, and it is sent to the Committee on the Judiciary. And that committee, of which he is a member, consistently refuses to take any action on it. Of course, it would be better if the Committee on the Judiciary did its duty and had a markup and let us vote on the bill.

The Committee on the Judiciary tyrannically refuses to deal with the bill. That is bad enough. But it literally adds insult to the democratic process to injury of the democratic process to refuse to act on the bill, and then complain when people find another way around. This is like locking somebody up, and she escapes through your backyard, and you charge her with trespassing. We have found a way out of your prison, and that bothers you. How can anyone seriously argue that, having refused to let the bill be subjected to the normal processes, we are the ones who are at fault because we have found another way to bring it up?

And then we have the gentleman from North Carolina who said this is a violation of free speech. I guess it is easy when you do not read the bill. This bill criminalizes actions that consist of violence against individuals. It allows the Attorney General to enter under certain limited circumstances, if it is a Federal crime of violence under the Federal U.S. Code. It allows certain other things if there is an act of bodily injury or an attempt to cause bodily injury. Nothing in here criminalizes speech. In fact, when people start talking about Sweden, it is a pretty good indication that they do not have anything to talk about with regard to the law that we are voting on in America. By the way, America, unlike Sweden, has a first amendment, and the Supreme Court would have banned that if anybody tried to.

Finally, to refute that argument, which is without any merit whatsoever; I mean, sometimes we get close questions here. That one has no merit. There is nothing remotely in this bill that threatens anybody's speech. But here is the proof of it, and it also is a sign of the gross inconsistency of those on the other side. We are not starting down any path today, except the path of their illogic. What we are doing is adding a category to existing Federal categories. There are already on the books laws that create hate crimes. It is not the case that every crime is treated equally.

By the way, there was one category of people, and violence against them is much more seriously treated than violence against anybody else. If you are so offended by that, where is your motion to amend the law and take away the statute that says it is a super Federal crime to assault one of us. If a Member of Congress and a private citizen are walking down the street and they are both assaulted, it is a much more serious crime against the Member of Congress. Where is your consistency? If you mean what you say, why have you not gone after that, or is it okay if you are protected, Madam Speaker?

And then we have race on the books, and we have religion. Has anybody ever found a case where they say, well, once you do this, someone's free speech will be impugned? Are you telling me there are no racists in America? Are you telling me that no one makes racially offensive remarks? People do. And none of them, none of them have ever been prosecuted for hate speech.

So, in fact, you deny the reality, Madam Speaker, when people say this, that there are already on the books certain categories that are treated as hate crimes. None of them have led to there being any impugning of people's free speech.

Then the question is, why do we want to do this? In the first place, no one is saying that if you were violently assaulted, you will not be protected by the law. Why do we add an additional element if it is a hate crime? And here is the reason: When people are going out and singling out people because of their race or their color; and, by the way, if people who are white are being assaulted by people of another race because of their race, that is a hate crime, and it ought to be treated as such. I do not share the view that that is a bad thing. It is wrong for thugs to tyrannize people because of that, and it is worse than another crime for this reason.

If some individual is walking down the street and is randomly assaulted, he or she is traumatized. But if another individual is singled out because of her race or religion or sexual orientation or gender, then it is not simply the individual who has been assaulted but others who share that characteristic who are put in fear.

We do have a particular problem. The gentleman said, well, you are saying gender instead of sex. Yes, there are people who are transgendered in our society. They are sadly often victimized. They are often victims of violence. Yes, I think it is a good idea to come to their aid. And if the gentleman thinks it is a mistake to go to the aid of people who are transgendered who are more often than others victimized and who are put in fear for that, then we do disagree, and I welcome the chance to vote on it.

□ 1700

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

Madam Speaker, in addition to the other arguments that we have put forth saying that it is just wrong to treat people unequally in terms of the protection we give victims, focusing on victims, I want to tell my colleagues a lot of us believe very deeply that, as with respect to every individual American before the law and before God, we are equal and ought to be treated equal and certainly our laws ought to include that.

What we oppose is the fact that what this bill does is specifies certain people for extra protection under the law. It necessarily says other people are not going to get that extra protection, and it tends to do the very things that a lot

of my friends on the other side say they do not want to do. It tends to divide Americans. It tends to Balkanize Americans. It tends to separate Americans. It tends to put hyphens in front of all Americans, because if one does not have a hyphen in front their name they are not eligible for protection under this piece of legislation.

Once again, this is misnamed. This is not a hate crimes proposal. This is an unequal protection under the law proposal.

Madam Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I thank the gentleman for the time.

Does he then seek to undo the Federal law that singles out race and religion currently for a protection of this sort? If he thinks it is wrong to do division, does he oppose the existence of those laws and do we expect to see a law repealing these?

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

No, but I will support my colleague when he files the bill to take away the special protections of Members.

Mr. FRANK of Massachusetts. Well, why not race and religion?

Mr. FEENEY. Madam Speaker, I thank the gentleman for his question.

The point of this is that we should not be giving certain people special protections that we are not giving all Americans, and the gentleman earlier stated that he thinks it is very different for a thug to come along and batter, for example, somebody because of their race or their color or their ethnicity than it is to beat up somebody just on the street because of the fear it creates.

Madam Speaker, I can tell my colleagues that a lot of senior citizens, a lot of little old ladies carrying their purses from and to the market, one example, who are not protected by this bill live in fear every time they have to go out on to the streets. All of us deserve equal protection.

What we want to do in opposing this is make sure all Americans get the equal protection they are entitled to under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 2¼ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), an excellent member of the Committee on the Judiciary.

Ms. BALDWIN. Madam Speaker, I rise in support of our Democratic leader's motion.

It is tragic that hate crimes occur, but they do; and it is irresponsible and naive to deny that there are people out there who seek to commit violence against others because they are gay, lesbian or transgender, because they are female, because they have a disability. It happens far too often, and we must not be silent about it.

Enactment of Federal hate crimes protections is important for both substantive and symbolic reasons. The legal protections are essential to our system of ordered justice; but on a symbolic basic, it is important that Congress enunciate clearly that hate-motivated violence based on gender, sexual orientation, or disability is wrong. Because, quite frankly, too much of what we have been doing in this Chamber conveys the message that we really do not believe in full equality for all, and it is sort of like a wink and a nod that maybe a little discrimination is okay.

I want to speak briefly about why hate crimes differ from other violent crimes. A senior Republican Member of the other body said a few years ago, ''A crime committed not just to harm an individual, but out of motive of sending a message of hatred to an entire community is appropriately punished more harshly, or in a different manner, than other crimes.''

Hate crimes are different than other violent crimes because they seek to instill fear and terror throughout a whole community, be it burning a cross in someone's yard, the burning of a synagogue, or a rash of physical assaults near a gay community center. This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that persons should be free to be who they are without fear of violence.

The Local Law Enforcement Enhancement Act should stay in the defense authorization bill. For too long this body has failed to act to prevent or respond to hate crimes. We have the opportunity today to say something and do something about it.

I urge my colleagues to vote in support of this motion.

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

I agree with the gentlewoman from Wisconsin that the Americans she cited ought to be free from the fear of violence whether it is because of their color, their ethnicity, their race, their religious beliefs. But what about American veterans? Should they not be free from the fear of violence? What about senior citizens? They are not protected by this bill. How about America's children as they come to and from school every day. Is there anything in this that gives same protection it gives the special treated classes? Is there anything that protects our teachers in this bill and then protects the police officers that patrol our streets in this bill? Is there anything that protects a lot of Americans who have served their country and are just going about their business every day?

Madam Speaker, it is the position of those who oppose this unequal protection proposal that all Americans deserve equal protection under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State in his State.

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

Madam Speaker, as a member of the House Committee on Armed Services, I rise today to register my strong support to maintain the Senate's hate crimes provisions in the defense authorization conference report.

The brutal murders of Matthew Shepard and James Byrd graphically demonstrated to the Nation the horrors of violence motivated by hate and bigotry. In 2002 alone, law enforcement agencies reported 7,462 bias-motivated criminal incidents. Nearly half of those crimes were targeted at the victim's race with biases against religion, sexual orientation and ethnicity, also common reasons for violence. Fifty people were even harmed because of a physical or mental disability.

Unfortunately, four States have no laws against hate crimes, and the statutes in another 17 States fall far short of full protection. Even in a State such as Rhode Island, where we have strong laws against hate crimes, law enforcement officials recorded 38 cases of bias-motivated offenses in 2002. Because current Federal hate crimes laws cover only crimes motivated by racial, religious or ethnic prejudice, Congress simply must expand the definition to include violence based on gender, sexual orientation and disability, and promote the aggressive prosecution of all hate crimes.

Madam Speaker, no American should be targeted for violence based on prejudice; and we must, therefore, pass the Local Law Enforcement Hate Crimes Prevention Act which would provide Federal assistance to State and local authorities in prosecuting hate crimes. Additionally, the legislation would expand the Federal definition of hate crimes.

As a person with a disability, one of the categories that would be covered under the expanded definition, I know how important it is that our Nation protect all those that could be singled out for violence based on personal characteristics.

Madam Speaker, I urge all of my colleagues to vote for this motion to instruct conferees.

Mr. FEENEY. Madam Speaker, I yield 9¼ minutes to the distinguished gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Madam Speaker, I thank the chairman for the time, and let me start by saying that we all are opposed to hate crimes. They are a terrible thing, and any legislation that had a positive effect on stopping hate crimes I would be here supporting.

I sincerely believe by looking at this legislation that this legislation could not only interfere with our ability to, as a practical matter and in an effective manner, prosecute hate crimes; it

also would have some serious consequences for our enforcement of other laws which now exist.

I say also say that, first of all, there is already Federal hate crime legislation on the book, and I think it is well and narrowly drafted and takes care of the situation. So saying that, let me give my colleagues reasons why I feel that this legislation is a step back, not a step forward.

Look at this legislation. Hate crime, the language is so overbroad that hate is not even required. Nowhere in the legislation does it talk about hate. What that would do is that hate or any other type of animus is not even an element of this so-called hate crime legislation. It is not even in here. So if someone commits some certain broadly defined acts, and it says because if someone commits an act because of someone's race, sex, disability or sexual orientation, it violates this vague law.

If someone commits a crime because of someone's race because of someone's sex, is not all rape committed because of someone's sex? Could not that argument be made? So are we suddenly saying that all rape cases, almost all rape cases will be federalized? I mean, only a few rapists at the very most are indifferent to the sex of their victims. So we would be federalizing all rape cases.

Even assume that there is a need for a Federal hate crimes law. This is a poorly drafted bill. It should be debated. It should be amended significantly in committee before it is considered by the full House and the Senate because of this one thing, because we are fixing to federalize all rape cases.

Second, I believe that this actually could have a negative effect on our national security. Let me tell my colleagues why I believe that. This proposed legislation would swamp Federal law enforcement responsibilities; and in doing so, it would certainly distract them from some of our national goals. Now, more than ever, Federal law enforcement officers and prosecutors must concentrate their scarce resources on combating national threats or uniquely Federal crimes, and hate crime, there is not anything uniquely Federal about that. Those that commit them are doing it because of hate, not because of some Federal jurisdiction.

Terrorism, we have got our hands full of terrorism. On the Federal level with kidnapping cases, with auto theft, with espionage cases, to divert all our resources over to hate crimes and take them away from our State and local prosecutors and our State prosecutors is a tremendous redeployment of our resources.

I also fear that Federal officials might selectively enforce the law. The only other option for Federal officials other than seriously abandoning their other vital responsibilities is to enforce hate crime laws in a highly selective way. That increases the risk of politicizing prosecutions. If we federalize all these vague types of crimes, like all rape cases, they are going to have to pick and choose which ones they prosecute. Using the criminal enforcement agencies for political or ideological purposes, picking and choosing which cases to prosecute, by its very definition that is tyrannical.

A very important point, I think this legislation is going to undermine State and local criminal enforcement. Because of the broad expanse of Federal hate crime laws in this definition, I think it undermines State and local efforts to fight crime in several ways. It would undermine the morale of our frontline State and local law enforcement officials because it tells them they cannot handle this traditional role that they have been handling, prosecuting rape cases, prosecuting murder cases, prosecuting assault cases.

All of the sudden we are telling them this is such a serious problem, they are doing such a lousy job, we are going to take jurisdiction away from the State, and only the Federal Government has the ability to prosecute these cases. As I said, there is already a narrowly and well-constructed Federal hate law, and I have looked at this. Every one of these acts, and maybe the gentleman could respond to this, defined in this already constitutes hate crimes and are prosecuted by State courts today. Not a one of these things is a new crime.

Mr. CONYERS. Madam Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, I just wonder if the gentleman is aware that many States have asked for this assistance; that this merely amends the Federal nexus that already exists; and that the civil rights organizations and more than half a dozen police and law enforcement organizations have all strongly supported the request and the Department of Justice has not taken the point of view that is brilliantly argued by my friend from Alabama?

Mr. BACHUS. Madam Speaker, I think that is actually predictable and let me tell my colleague why.

Some States, but not all of them, but some of them already have hate crimes statutes, and they can already prosecute these cases; but all States, all of them, prosecute murder cases. They all prosecute assault cases. They all prosecute assault with intent to murder cases. They all today prosecute a battery case as a battery, assault as assault, rape as rape, murder as murder.

What this would do is it would expand the jurisdiction. In every one of those cases, a person could go to Federal court or State court, every one of them, and, yes, the States are strapped for money. The counties are strapped for money. Sure, they would like for us to come in and pass a law that suddenly says that every crime out there, even armed robbery with a pistol or robbery, all of those, but particularly rape, murder, assault, battery cases, assault with intent to murder, suddenly these are all Federal cases, yes.

I mean, from a money standpoint, how many Federal courts are we going to build? We would have to double the size of the Federal court, and sure, there are States that would just as soon take all these responsibilities away from them. There are other States, other law enforcement agencies, that think that their States are doing a good job.

As I said, all of these acts defined by this thing are today prosecuted by the States and prosecuted in State court. The only difference is we are going to let all of them go to Federal court now, and I do not think that is a good idea. Maybe this is an indictment saying the State courts are doing a horrible job. I do not know which States are doing a horrible job.

□ 1715

Final point. Murderers who face the death penalty under State law, now listen to this, murderers who face the death penalty under State law are not going to be deterred by an additional Federal hate crime law, especially a proposed Federal law that does not have the death penalty.

We are going to pass this, and we are going to end up with somebody being prosecuted in Federal Court that could have gotten the death penalty in State court and we will not be able to give the death penalty in Federal Court. Now, a lot of Members think that is just fine because it does away with the death penalty in a number of cases. It does in this.

And last, it is no less horrible for someone to be molested or murdered because the murderer liked him or her or than because the murderer hated him or her. If somebody kills me and they liked me, or at one time they were a friend of mine, I am just as dead. And I do not think that part of every case ought to be a day or two where we determine how much hate there was involved in the case.

Let us prosecute and convict them and get them off the streets and quit this tremendous shift to Federal jurisdiction.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3½ minutes to the gentleman from Maryland (Mr. HOYER), the whip of the Democrats, who has been a strong civil rights advocate throughout his career, and who I have been pleased to work with.

Mr. HOYER. Madam Speaker, I thank my distinguished friend, the chairman-in-waiting of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), for yielding me this time.

Madam Speaker, I support this motion to instruct conferees on the DOD authorization bill to keep the Senate-passed hate crimes legislation in the conference report. This straightforward legislation would provide assistance to State and local law enforcement officials to investigate and prosecute hate

crimes. It also would add gender, disability, and sexual orientation to the existing Federal hate crimes law and clarify the conditions under which such crimes could be federally investigated and prosecuted.

Enacting these important additions to existing law will send, I believe, a very powerful message that crimes committed against any American just because of who he or she is are absolutely unacceptable and that the Federal Government stands ready to assist or, yes, step in to assure that perpetrators of these crimes are brought to justice.

While the heinous murder of Matthew Shepard and James Byrd, Jr., will never be forgotten, thousands of other brutal crimes are committed every year that may not command the Nation's attention, yet nonetheless strike fear among entire communities in which they occur. That is exactly what makes forcefully addressing hate crimes so essential.

This legislation should have become law 4 years ago, when the Senate added hate crimes legislation to the Department of Defense authorization bill and the House, on a strong bipartisan vote, instructed conferees to accept the Senate's position. Unfortunately, however, because the Republicans' leadership opposed such a move, the hate crimes provisions was dropped in the conference, thus opposing the will of the majority of the House and the Senate.

Let us right that wrong this year. We should adopt this motion to instruct. And if the motion succeeds, I urge the leadership of this House and of the Senate to include it in the conference report.

In conclusion, Madam Speaker, let me say this. Why do we include hate crime as a specific and distinct crime? Clearly, if one knocks me over the head, he or she commits an assault. That is a crime at the State and local level. It is also a crime at the Federal level. Why should there be a specific crime if the motivation for hitting me over the head is that I am, well, I used to say blond, like my grandson, but gray haired?

The reason for that is that this Nation holds as a principle truth that all men and women are created equal and endowed by their creator with certain inalienable rights. Therefore, because we believe that every individual is entitled to rights, an assault on that individual is a crime; but if it is because of the class to which that person belongs, it is the undermining of the very essence of America, of our welcoming of diversity, of our rejecting prejudice and bigotry, of assuring every American equal protection of the laws. That is why this is a distinct and different crime.

We have found all over the world that hate is dangerous, that bigotry is dangerous. It undermines democracy. It undermines the safety and security of individuals. Let us pass this motion to instruct.

Mr. FEENEY. Madam Speaker, I am glad to yield 3 minutes to the gentleman from Indiana (Mr. PENCE), my great friend.

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

Mr. PENCE. Madam Speaker, I rise in the midst of, I think, a very important debate on the floor of this Congress, although I am sure many of my constituents in Indiana wonder why we are debating such a contentious social issue in the midst of a critical National Defense Authorization Act. Nevertheless, we are here, and I am grateful for the opportunity to speak.

I deplore violence for any reason against any person; and I believe, without hesitation, that that is the view of the good and decent men and women who serve on the floor of this Congress. But I oppose the motion to instruct and hope our conferees will remove the so-referenced hate crimes language because in addition to questioning whether this issue has a place in the defense bill, I consider it, as many have argued more eloquently than me, unnecessary, repetitive of State jurisdiction, and it is constitutionally suspect, claiming as its constitutional basis the 13th amendment, which would likely be rejected in the courts, as the gentleman from Florida (Mr. FEENEY) has argued.

But I rise today, Madam Speaker, as a member of the House Committee on the Judiciary and a civil libertarian deeply concerned over the issue of creating a crime for thought. It is difficult for me to understand how the governing of thought in any way, Madam Speaker, is consistent with the principles underlying a free society. That the Kennedy bill serves to punish thought per se is nowhere more obvious than in how, if passed, it will discredit the public mores of tens of millions of Americans on matters of sex and sexuality.

Specifically, the Kennedy language in the bill that we are considering includes a prohibition against gender-based and sexual-orientation-based crimes. As the 2001 committee report of the Senate committee on the bill made clear, the use of the term ''gender,'' instead of the proper term ''sex,'' is a deliberate effort to extend the law's protections to individuals in the categories of transvestites and those who have undergone sex change operations.

Obviously, Madam Speaker, it goes without saying that a great many Americans have deeply felt, sincerely held moral beliefs about homosexuality and about the various derivatives thereof. And make no mistake about it, the language in this legislation condemns implicitly those thoughts.

We all condemn actions that take the form of crimes, whatever their motivation. Crimes of violence are to be deplored, and they have been eloquently deplored by my colleagues on the other side of the aisle today. But legislation that focuses on the thoughts of Americans who have moral reservations about certain behavioral choices ought not to be a crime.

Mr. CONYERS. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER), a civil rights leader from California.

Mrs. TAUSCHER. Madam Speaker, I take that as a high compliment from the gentleman from Michigan (Mr. CONYERS), and I thank him for yielding me this time.

Madam Speaker, at a time when the House has so much important work to do, I am deeply disappointed that I have to arise to address the political posturing occurring on what should be one of the most important bipartisan bills before us, the defense authorization bill.

As a member of the House Committee on Armed Services, I strongly support the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS) and to agree and to accede to the language passed in the other body that includes this hate crimes legislation.

We have been here before. I am also a proud cosponsor of the gentleman's Local Law Enforcement Hate Crimes Prevention Act. Congress needs to be on the record supporting State, local, and tribal governments in their efforts to combat crimes committed against people based solely on their race, gender, sexual orientation, or religion.

□ 1730

I support including this hate crimes provision in the final version of the defense bill and urge the conferees to do so, as they have done before. We have included this vitally important language in previous defense bills with bipartisan support, only to have the Republican leadership strip it out in the end.

Mr. Speaker, it is irresponsible and unacceptable that Congress has not been assisting those in need in the fight to eradicate these crimes. Now is the chance to improve upon our previous actions and work with the conferees to allow this hate crime legislation to become law. Please support the Conyers motion to instruct.

Mr. FEENEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, in the 1 minute that I have, I would like to seek to illustrate what goes wrong if hate crimes legislation is implemented into law.

One example would be just a little over a week ago I used the phrase ''cultural continuity'' on the floor of this Congress. Within hours, there was a press release out declaring I was a racist. Now cultural continuity does not define anything other than this great unity of America, but the Members on the other side leaped to that conclusion, and I would ask the body would people who simultaneously pass public judgment be the same kind of people who would decide a case of hate crimes as jurors. If that is the case, I submit that prejudice is so great there cannot be an objective decision made.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Michigan (Mr. CONYERS) has 5 minutes remaining. The gentleman from Florida (Mr. FEENEY) has 3 minutes remaining.

Mr. FEENEY. Mr. Speaker, just as a parliamentary inquiry, does the gentleman from Michigan have the right to close?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has the right to close.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY) who has worked with the civil rights community in her State and Nation since she has come to Congress.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

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

Ms. WOOLSEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to assure the gentleman from Iowa (Mr. KING) that his position is a perfectly legitimate one, and for anyone to attack him as a racist on that regard I would take issue with. I want the gentleman to know that would not be the sentiments of anyone I know here in the Congress on this side of the aisle, and we apologize for any misunderstanding which may have resulted from that.

Ms. WOOLSEY. Mr. Speaker, every day at least four hate crimes are reported in the United States, at least four. But even worse are the crimes that are not reported. They are not reported out of fear of retaliation or feeling that law enforcement just will not follow through.

That is why we need tough Federal hate crime language to protect all Americans, and we need to include it in the Department of Defense authorization bill. If we do that, then the lack of response will change because no one in this country should live in fear, even for one day, because of his or her ethnic background, his or her religious affiliation, gender, disability, or sexual preference.

Mr. Speaker, that is why it is so important to pass meaningful hate crimes legislation and pass it now, today; and today we can send a message to all Americans that hateful behavior is wrong and will not be tolerated any longer. It is clear that existing Federal law is inadequate to vigorously fight and prosecute hate crimes.

Too often our law enforcement officials lack the resources and/or the education required to deal with these crimes. They do not have what they need within their own communities to step up to these criminal charges.

In California, for example, a report called ''Reporting Hate Crimes,'' a study commissioned by Attorney General Bill Lockyear, reveals there is a general lack of understanding by California law enforcement agencies on how to deal with hate crimes in local communities. The study found that in some communities, and this is horrible, in some communities public officials and business leaders actually discourage law enforcement officers from reporting hate crimes for fear of adverse publicity.

If law enforcement officers do not report hate crimes, what in the world happens to their credibility when they are supposed to be addressing the problem in the first place? Their credibility diminishes.

What is even more alarming is that hate crimes based on gender and disability are generally not reported at all. It is obvious we need hate crimes language in the Department of Defense authorization bill. We need it now. We need not have one person ever faced with a hate crime based on who they are. I urge my colleagues to support this motion to instruct.

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

Mr. Speaker, to close in opposition to this motion, I would say again that the arguments against this proposal being added by the conferees are very strong. This is a Department of Defense authorization bill. It is about defending our country, and we are interjecting an extra issue that we should not be dealing with here. This needs to go to the Committee on the Judiciary.

Number two, States can and often do prosecute these types of crimes. We ought to preserve the 10th amendment and allow traditional State crimes to be prosecuted at the State level.

Number three, this gives enormous prosecutorial discretion. Prosecutors could add this as a bargaining chip to threaten that they are going to bring a hate crimes allegation when in fact really are just trying to impose a stiffer sentence through the plea bargaining process.

Number four, we have not discussed how freedom of speech, as the gentleman from Indiana (Mr. PENCE) so eloquently argued, can be tied up in who should be charged with a hate crimes allegation and who should be charged with just a typical crime allegation. Often it is political correctness that determines who gets punished and who does not.

Finally, the most important reason is this is misnamed as a hate crimes proposal. This is an unequal protection proposal.

Since before 1868 in this country, since before the 14th amendment, sadly some Americans got less protections under the law than other Americans. Fortunately, since 1868 we have made a lot of progress in that regard.

What this proposal does is to give certain Americans more protections than others, exactly what we tried to do in 1868 with the 14th amendment. This does nothing to give protection to children, veterans, teachers, police, or to our many seniors throughout the country; and that why it is fatally and morally flawed, despite the best of intentions by the proposer.

This proposal divides America. It hyphenates America, it balkanizes America, and you get special protection if you are a member of a special class under this bill.

Mr. Speaker, criminals are like wolves. They are like lions. They prey on those who get the least protection from the herd. If we say children and seniors and veterans should not get the same protection, we need to be aware what the criminals will do. They will prey on those left unprotected.

Finally, Mr. Speaker, I would say to my friends on the other side of the aisle, the way to fight hate in America is to teach, it is to preach, it is to love, and it is to respect. It is not to divide, to balkanize, to hyphenate Americans and to grant special privileges and protections.

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

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

Mr. Speaker, I appreciate the debate we have had here today. I close with a reminder from the International Association of Chiefs of Police in the United States: this is not a door-opener for State prosecutors to get rid of cases or get into the Federal jurisdiction. They can only bring these cases if the Department of Justice agrees that they can be brought. Without that, the Department of Justice wants to make sure that they need this help and in some cases will grant programs to the State and local law enforcement to cover the costs of investigating and prosecuting.

So this hate crimes law will greatly assist law enforcement officers in investigating hate crimes.

Mr. Speaker, 175 organizations, law enforcement, civil rights, Hispanic national law groups, the Presbyterian Church, the Episcopal Church, Anti-Defamation League, Leadership Conference on Civil Rights, the NAACP, National Council of La Raza, American-Arab Anti-Discrimination Committee, National Asian Pacific American Legal Consortium, Sikh Mediawatch and Resource Task Force, Human Rights Campaign, the American Association of People With Disabilities, and the National Center For Victims of Crime pray that we will take action today.

Mr. FARR. Mr. Speaker, I rise today in support of the motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

The purpose of the Senate provisions is to strengthen and close loopholes in current law by making it easier for federal authorities to prosecute or assist local authorities in prosecuting crimes motivated by race, religion or ethnicity when appropriate. In addition, these provisions expand current law to include gender, disability, and sexual orientation. The Senate provisions are overwhelmingly supported by both the civil rights community and law enforcement organizations.

Many of my colleagues have questioned the relevance of these hate crimes provision in the DOD Authorization bill. However, it is naïve to

presume that the military need not concern itself with hate crimes, and there is devastating evidence that hate crimes occur in the military. I am referring to the July 5, 1998 murder of Pfc. Barry Winchell at Fort Campbell, KY. Twenty-one year old Private First Class Barry Winchell was beaten to death while he slept by a fellow soldier. During the court-martial trial, testimony from other soldiers showed that Pfc. Winchell's murderer engaged in harassment, rumor-mongering and prying into Pfc. Winchell's personal life in direct violation of the Don't Ask Don't Tell policy. The horrible murder of Pfc. Winchell is a lasting reminder of the need for vigilance in fiercely opposing and prosecuting all hate crimes and for providing our law enforcement organizations with the ability to prosecute these heinous crimes.

Every American, regardless of their race, religion, ethnicity, gender, disability, and sexual orientation deserves the right to live life to the fullest without the fear of bullying, persecution, or violence. I urge my colleagues to support this motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Motion to Instruct Conferees on agreeing to the Local Law Enforcement Enhancement provision of H.R. 4200, the Department of Defense Authorization bill for fiscal year 2005. Since the 105th Congress in 1997 there has been legislation introduced that is designed to enhance the ability of local law enforcement to fight hate crimes more effectively. Hate crimes legislation passed the Senate during the 107th Congress as part of the Department of Defense Authorization bill. Similarly, it was approved by the House pursuant to a motion to instruct on a 232–192 vote. Despite these bicameral, bipartisan votes, the hate crimes provisions were stripped from the Department of Defense bill in 2001. We must use the powers on Congress to fight hate crimes in all its forms and this motion will put a much needed piece of legislation into effect.

I am proud to be a cosponsor of the hate crimes bill that we introduced this Congress, which is identical to the Senate's amendment and has 177 bipartisan cosponsors. The Senate also supported this legislation as a bipartisan effort, with a 65–33 vote to include the Local Law Enforcement Enhancement Act as an amendment to the Department of Defense Authorization bill. Clearly, it has been the will of Congress to include this hate crimes legislation. Let us not waver and wait another day as Americans continue to be attacked and intimated by those who commit hate crimes.

There may be those out there who say that effective hate crimes legislation is no longer necessary, they would be dead wrong. From 2000 to 2002 alone, there were over 25,000 hate crime incidents. That alone should be a staggering enough number to make us want to act immediately. With this legislation, state and local authorities will have the enhanced support of the federal government when prosecuting hate crimes as the Justice Department will provide them with technical, forensic, or prosecutorial assistance. The Attorney General can also make grants to state and local law enforcement agencies which have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes. Finally, this legislation will ensure that state and local authorities continue to take the lead on this issue and prosecute the overwhelming majority of hate crimes by mandating that high ranking DOJ official approve all federal prosecutions under this law. It is truly the responsibility of the federal government to make sure that those who commit hate crimes are punished to the full extent of the law. Otherwise, we will only be showing a sign of weakness to those bigots and racists who have no qualms about violating people's basic human rights.

It saddens me but even to this day we see hate crimes in our own neighborhoods. Recently, I have seen a rash of hate crimes against Muslims in the state of Texas. There was an incident a week ago in which a man was arrested after allegedly throwing two home-made gasoline bombs into a mosque courtyard in El Paso during Friday Prayers. The bombs landed in a play area and splattered gasoline on children, luckily neither firebomb ignited. There was also an incident in the Houston area in July where a home-made bomb exploded in the mailbox of the Champions Mosque in Spring, Texas, again it was in the vicinity of children. In August, law enforcement authorities in McAllen, Texas were asked to investigate an intentionally-set fire at a Muslim store as a possible hate crime. The fire followed two separate incidents in which unknown parties painted the phrase "Go Home" on the door of the store. The hate-graffiti appeared just after the store began running advertisement on local television that featured a Muslim woman wearing an Islamic head scarf. Earlier this year, a man was arrested for threatening the same El Paso Islamic center targeted in the October 2nd incident. In San Antonio, Chief Albert Ortiz said a series of arsons, all at Muslim-owned businesses, were probably hate crimes. The Associated Press reported: "The first fire was set March 24 at a store in the northwest corner of the city near the University of Texas at San Antonio. The second came five days later in north central San Antonio. The third blaze occurred on Monday off Interstate 35 in southwest San Antonio. Clearly the great majority of people in Texas are not hateful. Clearly, law enforcement is doing all it can to prevent future attacks against the Muslim community, but they can use all the help they can get against this scourge.

There can be no doubt that this legislation we hope to attach to the Defense Authorization will help in our fight against hate crimes. After the terrible murder of Paul Byrd our nation awakened to fact that our nation is not free of unthinkable hatred. After the terrible murder of Mathew Shephard our nation realized that hate is not just directed at those who are racially different. Now, after Sept. 11th we realize that even at times when our nation came together there will be those who will use hatred to try to tear us apart. My point is that Hate Crimes do not affect any one people and they have not disappeared from our great nation. It is time we pass this needed legislation so that those who commit these heinous crimes will know that their hate has no refuge in the United States.

Mr. DELAHUNT. Mr. Speaker, I rise in support of the Motion to Instruct.

As this debate goes on, the memory is still fresh of the vicious attack on the Jewish Community Center in Los Angeles, and the brutal slayings of Matthew Shepard in Wyoming, James Byrd in Texas, Arthur Warren in West Virginia, and Joseph Ileto in California.

These episodes are tragic illustrations of the price we pay in human lives for hatred and ignorance—and powerful testimony of the need for hate crimes legislation.

Some have said that hate crimes legislation punishes thoughts rather than deeds. I disagree. It punishes neither thoughts nor words, but actions. Actions whose defining characteristic is that the victim is selected—singled out—as a proxy for the social group to which he or she belongs. Actions whose express purpose is to send a message of hatred and intolerance to an entire community.

When such actions take place in other countries—when individuals are persecuted because of their membership in a "social group"—U.S. law recognizes that it is no ordinary crime and grants them a remedy. We entitle them to petition for asylum. Why would we do less to protect our own citizens from the very same crimes?

Some have said we shouldn't pass this law because hate crimes are a local matter. I agree. The authors of this legislation agree. The vast majority of these crimes are investigated and prosecuted at the State and local level. And if this measure is enacted they will continue to be.

Federal hate crimes laws have been on the books for 36 years. All this legislation will do is ensure that when local authorities request assistance, or are unable or unwilling to act, Federal law enforcement agencies will have the ability to come to their aid.

That's why the legislation is supported by the National Sheriff's Association, the International Association of Chiefs of Police, the Federal Law Enforcement Officers Association, and other major law enforcement organizations.

And that's why we need the Hate Crimes Prevention Act. For all the Matthew Shepards and James Byrds and Joseph Iletos who can still be saved.

Mr. STARK. Mr. Speaker, I rise in strong support of the Motion to Instruct Conferees on the National Defense Authorization Act for Fiscal Year 2005. This motion would instruct conferees to include the hate crimes bill in the conference report, to stop the perpetration of violence against Americans merely because of who they are.

The fact is that while there has been a significant drop in overall crime in this country, the number of hate crimes continues to grow. Hate crimes send a chilling message that some Americans are second-class citizens who should fear for their lives because of their race, religion, gender, sexual orientation, or disability. These crimes target entire communities with the message that others in the community could be next.

The hate crimes bill would seriously address this oppression by expanding existing Federal law involving acts of violence motivated by bias against race, religion, or national origin. In addition, the bill would broaden Federal jurisdiction to include offenses that are motivated by bias against gender, sexual preference, or disability.

Mr. Speaker, we should be embarrassed that we're having this vote today, because in 2000, in response to several shocking hate crimes that received national attention, 232 Republicans and Democrats in the House and a bipartisan group of 57 Senators voted to pass the hate crimes law. It was later taken out of the defense bill at the insistence of the

Republican leadership in closed-door negotiations. So for 4 years, thousands of American hate crime victims have gone without the protection of their government because the will of the majority was subverted. I urge all of my colleagues to right this wrong and vote "yes" on the motion.

Mr. MEEHAN. Mr. Speaker, I rise today to express my strong support for the Motion to Instruct Conferees to the National Defense Authorization Act on hate crimes.

As a member of the Conference Committee and a cosponsor of the hate crimes legislation, I will urge my fellow conferees to retain the Local Law Enforcement Enhancement Act language.

According to the FBI, more than 7,400 hate crimes were reported in 2002. Hate crimes based on racial bias represented nearly half of all of those reported; sexual orientation-based hate crimes constituted nearly 17 percent; and nearly 15 percent were the result of bias against one's ethnicity or national origin.

In addition, many hate crimes go unreported. The Southern Poverty Law Center estimates that the actual number of hate crimes committed in the U.S. each year is closer to 50,000.

Hate crimes terrorize more than a single individual. Instead, they victimize an entire community.

Current Federal law on hate crimes is out of date. It does not cover hate crimes based on sexual orientation, gender, or disability. Also it severely limits the Justice Department's ability to respond to hate crimes against religious, racial and ethnic groups.

The Local Law Enforcement Enhancement Act will strengthen the ability of Federal, State and local governments to investigate and prosecute these vicious crimes. Cooperation between State, local, and Federal law enforcement officials offers the best chance of bringing perpetrators of hate crimes to justice.

The Local Law Enforcement Enhancement Act is supported by more than 175 law enforcement, civil rights, civic and religious organizations.

I urge Members to support this Motion to Instruct.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. PELOSI).

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

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

The yeas and nays were ordered.

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

AUTHORIZING PRINTING OF COMMEMORATIVE DOCUMENT IN MEMORY OF PRESIDENT RONALD WILSON REAGAN

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 135) authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

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

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, although it is not my intention to object; and I turn to the gentleman from California for an explanation of his request.

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

Mr. LARSON of Connecticut. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I rise today to support this resolution which authorizes the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan. I will be offering an amendment that will require the document to be printed under the direction of the Joint Committee on Printing, to be compiled by both bodies of Congress for the use of the full Congress.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for that explanation. Clearly, Congress most recently published tributes to President Nixon and in the past President Johnson and President Truman, and I am in concurrence with our distinguished gentleman from California.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. COMMEMORATIVE DOCUMENT AUTHORIZED.

A commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, consisting of the eulogies and encomiums for Ronald Wilson Reagan, as expressed in the Senate and the House of Representatives, together with the texts of the state funeral ceremony at the United States Capitol Rotunda, the national funeral service held at the Washington National Cathedral, Washington, District of Columbia, and the interment ceremony at the Ronald Reagan Presidential Library, Simi Valley, California, shall be printed as a Senate document, with illustrations and suitable binding.

SEC. 2. PRINTING OF DOCUMENT.

In addition to the usual number of copies printed, there shall be printed the lesser of—

(1) 32,500 copies of the commemorative document, of which 22,150 copies shall be for the use of the House of Representatives and 10,350 copies shall be for the use of the Senate; or

(2) such number of copies of the commemorative document that does not exceed a production and printing cost of $1,000,000, with distribution of the copies to be allocated in the same proportion as described in paragraph (1).

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOOLITTLE:

In section 1, strike ''Senate document, with illustrations and suitable binding'' and insert ''House document, with illustrations and suitable binding, under the direction of the Joint Committee on Printing''.

The amendment was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. 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. Con. Res. 135.

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

There was no objection.

□ 1745

AMENDING CONGRESSIONAL ACCOUNTABILITY ACT TO PERMIT SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, though it is not my intention to object, and I yield to my distinguished colleague from California for an explanation.

Mr. DOOLITTLE. I thank the gentleman for yielding.

Mr. Speaker, I offer this bill which would amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve two terms instead of one. The committee believes that amending the act to allow for the reappointment of members of the Board of Directors to a second term will improve the efficient operation of the Office of Compliance.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for his explanation. I applaud the effort to bring this forward. I think it covers four basic principles. First, fairness requires that congressional employees be

accorded the same rights and protections as other employees. Second, if the law is right, it should apply to Congress as well as the private sector. Third, if Congress lives by the same laws it applies elsewhere, it will write better laws. And, fourth, the constitutional separation of powers doctrine must be respected.

Mr. Speaker, I do hope, however, that we are able at a future time to revisit a GAO recommendation. GAO recommends strongly that the executive director, general counsel and the two deputy executive directors be reappointed to serve subsequent terms in either the same or different positions if warranted. I think that this makes sense, and it is my hope and intent that the committee in working with the chairman can bring this to the floor at a future date.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 5122

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

SECTION 1. PERMITTING SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE.

(a) IN GENERAL.—The second sentence of section 301(e)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1381(e)(1)) is amended to read as follows: ''A member of the Board may be reappointed, but no individual may serve as a member for more than 2 terms.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to individuals serving on the Board of Directors of the Office of Compliance on or after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of H.R. 5122.

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

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 47 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYES) at 6 o'clock and 32 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on the following motions:

Motion to instruct on H.R. 4200, by the yeas and nays;

Motion to close the conference on H.R. 4200, if offered, by the yeas and nays; and

Motion to suspend the rules on S. 2363 de novo.

The first electronic vote will be conducted as a 15-minute vote. The remaining votes in the series will be 5-minute votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on the motion to instruct conferees on H.R. 4200 offered by the gentlewoman from California (Ms. PELOSI) on which the yeas and nays are ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. PELOSI).

The vote was taken by electronic device, and there were—yeas 213, nays 186, not voting 33, as follows:

[Roll No. 473]

YEAS—213

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Burns
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gerlach
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Platts
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Woolsey
Wu
Wynn

NAYS—186

Aderholt
Akin
Alexander
Bachus
Baker
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kline
Knollenberg
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—33

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Cubin
DeMint
Dooley (CA)
Fattah

Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Payne
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Tauzin
Tiahrt
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYES) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1902

Messrs. McINTYRE, GALLEGLY, GIBBONS, OSBORNE, BOYD and WALSH changed their vote from ''yea'' to ''nay.''

Messrs. WELLER, WALDEN of Oregon, GILCHREST and MARIO DIAZ-BALART of Florida changed their vote from ''nay'' to ''yea.''

So the motion to instruct conferees was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. SAXTON. Mr. Speaker, pursuant to clause 12 of rule XX, I move that the meetings of the conference between the House and the Senate on H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense for military construction and for defense activities of the Department of Energy to prescribe personnel strengths for such fiscal year for the armed forces, and for other purposes, be closed to the public at such times as classified national security information may be broached, provided that any sitting Member of the Congress shall be entitled to attend any meeting of the conference.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON).

Pursuant to clause 12 of rule XXII, the motion is not debatable and the vote must be taken by the yeas and nays.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 36, as follows:

[Roll No. 474]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
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)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
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
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—36

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Castle
Cubin
DeMint
Diaz-Balart, L.
Dooley (CA)
Fattah
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Payne
Pelosi
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Stark
Tauzin
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1911

So the motion was agreed to.

The result of the vote was announced as above recorded.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2363.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2363.

The question was taken.

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

RECORDED VOTE

Mr. FLAKE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 374, noes 19, not voting 39, as follows:

[Roll No. 475]

AYES—374

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Beauprez

Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
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
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—19

Akin
Culberson
Deal (GA)
Flake
Franks (AZ)
Garrett (NJ)
Hensarling
Istook
Johnson, Sam
Jones (NC)
King (IA)
Manzullo
Miller (FL)
Norwood
Otter
Paul
Pence
Shadegg
Toomey

NOT VOTING—39

Ballenger
Barrett (SC)
Boehlert
Burr
Cannon
Collins
Cubin
DeMint
Diaz-Balart, L.
Dooley (CA)
Fattah
Feeney
Gephardt
Gutierrez
Hastings (FL)
Hoeffel
Honda
Houghton
Hunter
Isakson
John
Jones (OH)
Kingston
Majette
Meeks (NY)
Murtha
Nethercutt
Ose
Payne
Pelosi
Putnam
Rogers (KY)
Sánchez, Linda T.
Sanders
Shays
Stark
Tauzin
Weldon (FL)
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1919

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent this evening from this Chamber. I would like the record to show that, had I been present, I would have voted "yea" on rollcall votes 473, 474, and 475.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. HAYES). Without objection, the Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania, HEFLEY, SAXTON, MCHUGH, EVERETT, BARTLETT of Maryland, MCKEON, THORNBERRY, HOSTETTLER, JONES of North Carolina, RYUN of Kansas, GIBBONS, HAYES, Mrs. WILSON of New Mexico, Messrs. CALVERT, SIMMONS, SKELTON, SPRATT, ORTIZ, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, REYES, SNYDER, TURNER of Texas, SMITH of Washington, Ms. LORETTA SANCHEZ of California, and Mr. HILL.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Mr. HOEKSTRA, Mr. LAHOOD and Ms. HARMAN.

From the Committee on Agriculture, for consideration of section 1076 of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BURNS, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 590, 595, 596, 904, and 3135 of the House bill, and sections 351, 352, 532, 533, 707, 868, 1079, 3143, and 3151–3157 of the Senate amendment, and modifications committed to conference: Messrs. CASTLE, SAM JOHNSON of Texas, and BISHOP of New York.

From the Committee on Energy and Commerce, for consideration of sections 596, 601, 3111, 3131, 3133, and 3201 of the House bill, and sections 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Government Reform, for consideration of sections 801, 806, 807, 825, 1061, 1101–1104, 2833, 2842, and 2843 of the House bill, and sections 801, 805, 832, 851, 852, 869, 870, 1034, 1059B, 1091, 1101 1103–1107, 1110, 2823, 2824, 2833, and 3121 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SHAYS, and WAXMAN.

From the Committee on House Administration, for consideration of the sections 572 and 1065 of the Senate amendment, and modifications committed to conference: Messrs. NEY, EHLERS, and LARSON of Connecticut.

From the Committee on International Relations, for consideration of sections 811, 1013, 1031, 1212, 1215, title XIII, sections 1401–1405, 1411, 1412, 1421, and 1422 of the House bill, and sections 1014, 1051–1053, 1058, 1059A, 1059B, 1070, title XII, sections 3131 and 3132 of the Senate amendment, and modifications committed to conference: Messrs. HYDE, LEACH, and LANTOS.

From the Committee on the Judiciary, for consideration of sections 551, 573, 616, 652, 825, 1075, 1078, 1105, 2833, 2842, and 2843 of the House bill, and sections 620, 842, 1063, 1068, 1074, 1080–1082, 1101, 1106, 1107, 2821, 2823, 2824, 3143, 3146, 3151–3157, 3401–3410 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 601 and 2834 of the House bill, and section 1076 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and INSLEE.

From the Committee on Science, for consideration of section 596 of the House bill, and sections 1034, 1092, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SMITH of Michigan, and GORDON.

From the Committee on Small Business, for consideration of sections 807 and 3601 of the House bill, and sections 805, 822, 823, 912, and 1083 of the Senate amendment, and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELÁZQUEZ.

From the Committee on Transportation and Infrastructure, for consideration of sections 555, 558, 596, 601, 905, 1051, 1063, 1072, and 3502 of the House bill, and section 321, 323, 325, 717, 1066, 1076, 1091, 2828, 2833–2836, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, DUNCAN, and CAPUANO.

From the Committee on Veterans' Affairs, for consideration of the sections 2810 and 2831 of the House bill, and sections 642, 2821, and 2823 of the Senate amendment, and modifications committed to conference: Messrs. SMITH of New Jersey, BROWN of South Carolina, and MICHAUD.

From the Committee on Ways and Means, for consideration of section 585 of the House bill, and section 653 of the Senate amendment, and modifications committed to conference: Messrs. SHAW, CAMP, and RANGEL.

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 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.

COMMENDING RESILIENCY OF PEOPLE OF THE STATE OF FLORIDA AND WORK OF INDIVIDUALS WHO ASSISTED WITH RECOVERY EFFORTS AFTER HURRICANES CHARLEY, FRANCES, AND IVAN

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 784) commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan, as amended.

The Clerk read as follows:

H. RES. 784

Whereas on August 13, 2004, Hurricane Charley reached landfall and blasted the southwest region of the State of Florida with 145 mile per hour winds and 10-foot storm surges;

Whereas on September 4, 2004, Hurricane Frances reached landfall and battered the east coast and central region of Florida with 105 mile per hour winds and up to 17 inches of rain;

Whereas on September 16, 2004, Hurricane Ivan reached landfall and devastated the panhandle region of Florida with 130 mile per hour winds and estimated 16-foot storm surges;

Whereas on September 26, 2004, Hurricane Jeanne reached landfall and struck the east coast of Florida with 120 mile per hour winds;

Whereas in Florida, 27 people lost their lives due to Hurricane Charley, 30 people lost their lives from the devastation caused by Hurricane Frances, 21 people lost their lives from the destruction of Hurricane Ivan, and 6 people lost their lives as a result of Hurricane Jeanne;

Whereas tens of thousands of homes and businesses were damaged or destroyed by the four hurricanes;

Whereas insured property losses from Hurricane Charley are estimated at almost $7,000,000,000, losses from Hurricane Frances are estimated at up to $4,000,000,000, and losses from Hurricane Ivan are estimated at up to $10,000,000,000;

Whereas more than 20,000 farms were in the path of Hurricane Frances, resulting in more than $2,000,000,000 in damage to the Florida agriculture community;

Whereas the travel and tourism industry in Florida faces billions of dollars in lost revenue;

Whereas power outages caused by the hurricanes have affected more than 6,000,000 people;

Whereas Florida Governor Jeb Bush took immediate action by declaring a major disaster for the entire State of Florida and deploying necessary resources to deal with this crisis;

Whereas the Florida Division of Emergency Management officials did an outstanding job coordinating efforts among Federal, State, and local entities;

Whereas Michael D. Brown, Under Secretary of Homeland Security for Emergency Preparedness and Response, responded quickly to each of the disasters;

Whereas the Federal Emergency Management Agency has more than 2,700 agency workers helping with recovery efforts;

Whereas State, local, and municipal elected officials in Florida diligently voiced the concerns and needs of their respective communities;

Whereas State and local police officers, firefighters, and first responders went above and beyond the call of duty in responding to the four hurricanes;

Whereas Florida Emergency Operations Center personnel worked tirelessly to direct relief efforts;

Whereas the National Guard was quick to mobilize more than 4,100 troops to help in the relief effort;

Whereas doctors, nurses, and medical personnel worked expeditiously to ensure that hospitals and medical centers continued providing necessary care to their communities;

Whereas the American Red Cross and other volunteer organizations and charities are supplying hurricane victims with food, water, and shelter;

Whereas utility companies have worked around-the-clock shifts to restore electric, phone, cable, and water service to damaged areas;

Whereas the Army Corps of Engineers has worked to reinforce thousands of homes with roof damage;

Whereas the National Oceanic and Atmospheric Administration did an extraordinary job providing accurate forecasts of these four devastating storms; and

Whereas thousands of volunteers from across the country have donated their time and resources to help with recovery efforts: Now, therefore, be it

Resolved, That the House of Representatives commends the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. 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 gentleman from Florida?

There was no objection.

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

Mr. Speaker, the people of the great State of Florida, as we all have seen during the past days, have endured one of the deadliest and most overwhelming hurricane seasons in history. This past weekend, Hurricane Jeanne ravaged Florida's Atlantic coast and became the fourth storm to hammer my State in 6 weeks. For the fourth time, thousands of Floridians were forced into shelters to outlast another powerful hurricane. They lost power, they lost possessions, and they emerged to salvage a few belongings from their damaged homes.

Those Floridians stood in lines waiting for meals, ice; and now they have begun the difficult task to repair their damaged or destroyed homes, to save and put together, find their belongings, all while tolerating Florida's most difficult heat.

But worse than all these inconveniences the storms brought, unfortunately, many Floridians again learned that another storm had taken some of their family, some of their friends, and some of their neighbors. We extend our deepest sympathy to all those who lost their loved ones in these natural tragedies.

The chronology of the Sunshine State's August and September goes like this, and it is an unbelievable scenario: first, Hurricane Charley pounded Florida's southwest coast with nearly 150-mile-an-hour winds on Friday, August 13. It caused approximately some $7 billion in damage.

Then on September 4, Hurricane Frances punished practically the entire State as it moved in a very slow fashion across the entire peninsula during Labor Day weekend. Property damage from Frances is estimated to cost some $4 billion.

Still reeling from the first two storms, Hurricane Ivan, nicknamed Ivan the Terrible, blasted Alabama and Florida's panhandle on Thursday, September 16.

□ 1930

Ivan left behind an astonishing $10 billion worth of damage and cost for residents to sustain.

Finally, and almost unbelievably, we had one final natural disaster this past weekend. Hurricane Jeanne claimed 6 lives and devastated huge parts of central Florida on Sunday. I am sure many people watched it as it followed the track of a previous hurricane. In Daytona Beach, an area that I represent, the storm washed out sea walls, destroyed beach ramps and scattered tons of debris everywhere. Of course, hard hit were the areas in Martin County and Stuart. Jeanne will cost affected communities another estimated $10 billion, and it knocked out power to more than 2 million residents.

Amazingly, all four of these storms rank in the top ten most expensive hurricanes in American history. But these statistics of losses, while devastating for many families, businesses, farms, the tourism industry, our Florida workforce and others, are ultimately just numbers. The real tragedy of these storms is that they have killed some 79 people in Florida alone, not to mention the 1,500 estimated deaths in Haiti. Jeanne's fury killed six Floridians just this past weekend. These four storms constitute an absolute major tragedy, and our most sincere thoughts and our prayers remain with the individuals and families of those affected by the hurricanes.

Mr. Speaker, the people of Florida have been through an exhausting month and a half. But amid the tragedy and loss, Floridians have responded with an absolute awe-inspiring support and resistance. Relief efforts have been massive. State officials have reported that relief workers and emergency responders have distributed more than 16 million meals, 9 million gallons of water and 60 million pounds of ice over the past 6 weeks. Everyone, and I do say everyone, from the Federal level, the State level and the local level, FEMA, the Florida Emergency Management Division, the National Guard, the American Red Cross, the Army Corps of Engineers and so many other government agencies, private groups and countless individuals have pitched in when residents needed help. Neighbors helped neighbors, hundreds of thousands of acts of kindness and help. The work continues as we speak. But this resolution tonight praises the help of all these selfless people.

Mr. Speaker, it has been an exhausting end to the summer in Florida. Residents are tired and weary but are certainly not defeated. I commend tonight all Floridians in the wake of these four terrible hurricanes. I also want to take this opportunity to thank my good friend from Florida (Mr. FOLEY), whose district was hard hit, for offering House Resolution 784 on behalf of all of the Florida delegation.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague from Florida (Mr. MICA) in consideration of H. Res. 784 which commends the resiliency of the people of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances and Ivan.

As residents of Florida return to their homes to rebuild their lives and communities, they demonstrate the very resilient character of the American people. It is impossible to know why we Americans embody this characteristic. Perhaps it has been passed down to us from our ancestors who survived the most difficult of circumstances upon their arrival here. They were tested fiercely, and we as Americans find ourselves tested again and again. But rather than back down from these challenges, it seems that we are at our finest during times of difficulty and in times of crisis. Our spirit is resolute, our generosity is seemingly boundless, and our determination is unyielding.

The devastation caused by Hurricanes Charley, Frances and Ivan, not to mention Jeanne, have left many people in Florida to repair damaged homes or to rebuild their lives. Despite the frustration and sadness they feel, the residents of Florida have proven to us once again that they can prevail over tragedy and hardship by working together. Whether a family member lends shelter and food to another family member in need or a neighbor helps another salvage keepsakes from a destroyed home, or a person offers a bottle of water or the use of a phone to a stranger, the people of Florida are bravely doing what is necessary to help one another get through this tragedy.

We Americans can be proud of the people of Florida, so I am pleased to join my colleague as we offer words of support, words of comfort and words to know that no matter how difficult the circumstances, Florida will continue to rise and rise and rise again.

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

Mr. MICA. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), the sponsor of House Resolution 784, commending the people of Florida.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) and the gentleman from Florida (Mr. MICA). I never thought I would leave Florida today and find the remnants of Jeanne here in our Nation's capital, but so it be.

One of my interns, Adrian Sferle, has basically done what I think is an outstanding map; it was not prepared by NOAA. It was prepared by a college intern, that tracks the four hurricanes that the gentleman from Florida (Mr. MICA) so eloquently described, the hardships they have created, the damage they have wrought and the injuries they have inflicted to a fragile Florida. The purpose today is not necessarily to recount the damage, the totals, the numbers, because they are all stark and they all bring weight to the human spirit because they have endured and caused great pain, great physical, emotional, exhausting pain. People in some parts of Florida, my friend Jeff Miller knows from Pensacola, Adam Putnam, virtually every member of the delegation has had these four storms hit parts or portions of their district. I had the distinction of having three: Charley, Jeanne, Frances, Jeanne and Frances entering almost at the exact same spot in Martin County, Florida; Charley hitting Punta Gorda; Ivan hitting Pensacola, then through Alabama. And, of course, those storms have wrought great tragedy. But the beautiful thing about a storm of this magnitude, if there can be a positive outcome, it is what the gentleman from Illinois (Mr. DAVIS) described, and that is the spirit of America coming forward to aid and assist their fellow man in time of need. The gentleman from Florida (Mr. MICA) mentioned the organizations, American Red Cross, United Way, Salvation Army, among many who have stood up with leadership, compassion and capability to bring Florida back together again. Spending time in emergency operating centers of several counties, we have seen volunteers, professionals, firefighters, Corps of Engineers, you name it, police, sheriff, county administrators, county commissioners, soldiering on and dealing with the pre-hurricane preparedness and the after-hurricane response. Insurance agencies coming down quickly to solve the problems of those that have been injured. Corps of Engineers and their blue tarp program working expeditiously to secure the roof of those who have lost their roofs. FEMA. The tremendous response by Mike Brown, Under Secretary of Homeland Security, and his entire team. Over 4,000-plus people from FEMA are working in the State of Florida. The Governor of our great State, Jeb Bush, has spent the last 7 weeks tirelessly dealing with the needs of the citizens of Florida. The bipartisan spirit of our delegation has been superb. Our two Senators have worked so hard and have fashioned resolutions to deal with the aftermath of these storms. The President coming to Florida on three occasions and will again be in Florida tomorrow to deal with the after-effects of the disaster, ordering FEMA and other Federal agencies to prepare not only in advance of the storms but after to remedy the needs of Floridians.

But we could not do it without the volunteers, the people who have assembled to hand out ice and water. Today,

I was in West Palm at the fair grounds. There were kids who were remanded to the drug court that were participating. There were several Miami Dolphin football players participating. There were people from all walks of life, doctors and nurses who were there on the scene, taking time out of their own lives when they had their own homes to rehabilitate, when they had their own homes and families to deal with. Nonetheless, they stood shoulder-to-shoulder in the blazing Florida sun to make certain no person was left behind without the basic, necessary essentials. These are the heroes that I come to the floor today to commend.

We would have never expected four storms in Florida. Maybe we should, because Florida is in the tropics, and we are in a way where storms will make their progress and path toward our State. But we will bounce back. We will be better. We will be stronger. And we will be united. Storms know no partisanship. They certainly know no direction. They find their way, and they do their devastation. But humanity rises to the call and to the occasion. I am deeply gratified for everyone in the process who has worked so hard. I know we will bounce back in the travel and tourism industry. I know we will bounce back in some of the other things that we are going to deal with. There are many measures we are sponsoring on regional emergency energy reserves, on review of energy repair efforts after a disaster, on insurance disaster relief reserves using IRA accounts and so many other things. But I do not want to cloud this resolution with a lot of future endeavors but to thank those who took time out of their lives to share with their fellow Floridians the hard work and handiwork that they are bringing to bear to relieve the suffering of our constituents.

I thank first the gentleman from Virginia (Mr. TOM DAVIS) for giving me an opportunity to proceed out of order. I thank the gentleman from Florida (Mr. MICA) and his committee for giving us the chance to have this resolution heard.

Mr. MICA. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this past weekend, once again, Floridians were tested. This is the year that I decided to buy waterfront property, so I, too, was there. I, too, learned the fear of the very harsh winds that came, the wonder if everything was secured properly, only to wake up yesterday morning to find water in my first floor once again. What happens is neighbors come together. They help each other, and Floridians are resilient. They will again be rebuilding, rebuilding better, safer structures. But because we love our State and we love, certainly, the Sunshine State, and I predict that, come January or February, when the snow is high up here, that even us Floridians will look back upon this as just a time of test.

Whether it was Charley, Frances, Ivan or, this past weekend, Jeanne, we saw communities come together. We saw people helping each other. We might have lost our power. We might have lost some of our possessions and certainly our pride because we never could relate to what it meant to be homeless, but there are so many people who are now homeless as a result of this storm.

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The simple things such as taking a nice warm shower, these amenities obviously were missing. The Red Cross as well as the Salvation Army moved in some shower units so that while people were waiting for the power to come back on, at least they could take a shower. They provided water, ice, food, and certainly comfort. Many of the churches also opened their doors to provide hot meals to people.

Floridians will survive this storm this past weekend as we survived the ones in the past. Neighbors are helping neighbors. Certainly the sheriffs' offices are to be commended. We have heroes out there, everyday people in the communities who are stepping forward to help individuals whose property may have been damaged by these storms. We need to remember these very brave people, whether they are firefighters, whether they are the road deputies, or whether they are the neighbor next door who comes forth with a chain saw and is willing to help somebody who has had a tree fall on their property. Floridians are a hearty group and certainly we need to commend them.

And I want to thank the gentleman from Florida (Mr. FOLEY) for introducing this resolution.

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

To conclude, Mr. Speaker, I commend the gentleman from Florida (Mr. FOLEY), the author of this resolution, commending the people of Florida on their response, their attitude, their resilience in a time they have faced of unprecedented natural disasters.

I again would close by saying that we owe a great deal of thanks to President Bush, who has responded first with a recommendation of $2 billion. Most recently with $7.1 billion in Federal assistance that will supplement insurance and other assistance from the private sector to people who have been seriously affected, who have lost their homes, their possessions, their businesses in this horrible series of natural disasters.

I want to thank Jeb Bush. Rarely has any Governor responded with such commanding presence to assist his people than the Governor of Florida, Jeb Bush. Of course we all want to thank Federal, State, local volunteers, workers, and people who came from other States to assist us in our time of need, and neighbors who helped neighbors.

We have lost a lot of things in Florida, but one thing we did not lose was our sense of humor. And I must close with we have a local columnist in the Orlando Sentinel. I believe this was ten things that he pointed out that Floridians learned from the hurricanes and disasters, and I will point out two of them. Again, Floridians did not lose their sense of humor, but ten things we learned. Two of them: One, we learned that no matter how great the hurricane-force winds, the political signs did not blow away. Also, and again I think it was Mike Thomas of the Sentinel, one of the things we learned, it is one's God-given right as a Floridian, when they have had a hurricane, to sit on their back porch by candlelight eating Chinese food in their underwear. And again one can only appreciate that if they are a Floridian and have had to go through a very traumatic time without power in a very hot time of the summer. So we have not lost our resilience. We have not lost our sense of humor.

Finally, I will announce that Florida is open for business. Our tourist attractions are open and we welcome people. The best way people can help the people of Florida now is to, in fact, visit Florida, continue with their plans. While we have some areas that have been hard hit, a simple call will confirm that most of Florida, and particularly the tourist areas, are open for business. And people can help us, again, with economic recovery by not abandoning their plans to visit Florida.

So with that, Mr. Speaker, I am pleased to support House Resolutions 784 by the gentleman from Florida (Mr. FOLEY).

Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Florida (Mr. MICA) has 30 seconds remaining.

Mr. MICA. Mr. Speaker, I yield the balance of my time to the gentlewoman from Florida (Ms. HARRIS).

(Ms. HARRIS asked and was given permission to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, during the last month and a half, the worst of circumstances has summoned the best of humanity. As I have visited emergency operation centers, Red Cross shelters, and temporary housing sites throughout Florida's 13th Congressional District, I have truly been amazed by the courage, determination, and compassion I have witnessed.

Just last weekend the gentleman from Ohio (Mr. NEY) joined me in visiting some of the worst-hit areas in my district, in DeSoto and Hardee Counties, just hours before Hurricane Jeanne became the third hurricane in 6 weeks to devastate this economically challenged region.

And what was the attitude of those residents as a disaster of already historic proportions threatened to become even worse? Not bitterness or even despair, but unbelievable selflessness as they said that they were glad the hurricane approached, as they had lost everything, it would not be damaging anyone else in its wake.

Storms like Charley, Frances, Ivan, and Jeanne can destroy the property of our State's valiant people. They can even test Florida's enormous reserve of physical and emotional energy, but they will not break our will or steal our heart.

As we consider legislation to assist hurricane victims, may we act in the same spirit and with the same courage and determination.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H. Res. 784, which commends the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan. As a Floridian and cosponsor of this resolution, I am proud to stand here today.

Florida is the most hurricane-prone State in the Nation. This season alone we have witnessed destruction from Hurricanes Charley, Frances, Ivan and, most recently, Jeanne. Homes have been damaged and in some cases destroyed. Power outages continue to plague many throughout the State. The agricultural industry has taken a beating by the devastation caused to crops and livestock.

And the hurricane season is far from over.

Mr. Speaker, Floridians are tired and many are hurting as a result of these hurricanes. But they don't give up. They rally together to help those in need, volunteering their time and resources to help their neighbors. Even individuals who are faced with repairing their own homes and businesses take time to help those with greater need first. This is a testament to the good will and hopeful spirit that I have come to admire and expect in the people of our great State.

I commend Floridians for persevering during this trying hurricane season, and I applaud all those who have assisted in recovery efforts. Governor Jeb Bush has done a great job leading, encouraging, and comforting the weather-weary citizens of our State, and he is one player among a cast of thousands that is worthy of our praise. Mr. Speaker, I wish to thank the Federal Emergency Management Agency (FEMA) representatives who have spent much time and many resources assisting Floridians. I also commend our local and State law enforcement officials, emergency workers, and public safety personnel for keeping order, directing traffic and rescuing stranded individuals.

There are too many people to thank to name them, but they know who they are. I encourage all Floridians to keep persevering and to keep helping one another. You are an inspiration to us all.

Mr. Speaker, passage of H. Res. 784 would show the people of Florida that the House of Representatives recognizes and values the manner by which they have dealt with this busy hurricane season. I urge all of my colleagues to support this resolution to commend Floridians for their hard work and patience during this difficult time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the resolution, H. Res. 784, 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.

The title of the resolution was amended so as to read: ''Commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne.''.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 106, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO MARRIAGE

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–705) on the resolution (H. Res. 801) providing for consideration of the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 107, MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2005

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–706) on the resolution (H. Res. 802) providing for consideration of the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3193, DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–707) on the resolution (H. Res. 803) providing for consideration of the bill (H.R. 3193) to restore second amendment rights in the District of Columbia, which was referred to the House Calendar and ordered to be printed.

DISTRICT OF COLUMBIA RETIREMENT PROTECTION IMPROVEMENT ACT OF 2004

Mr. TOM DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4657) to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4657

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 ''District of Columbia Retirement Protection Improvement Act of 2004''.

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA FEDERAL PENSION FUND FOR PAYMENT OF FEDERAL BENEFIT PAYMENTS TO DISTRICT OF COLUMBIA TEACHERS, POLICE OFFICERS, AND FIRE FIGHTERS.

(a) IN GENERAL.—Subtitle A of title XI of the Balanced Budget Act of 1997 (sec. 1—801.01 et seq., D.C. Official Code) is amended—

(1) by redesignating chapter 9 as chapter 10;

(2) by redesignating sections 11081 through 11087 as sections 11091 through 11097; and

(3) by inserting after chapter 8 the following new chapter:

''CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

''SEC. 11081. CREATION OF FUND.

''(a) ESTABLISHMENT.—There is established on the books of the Treasury the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund (hereafter referred to as the 'D.C. Federal Pension Fund'), consisting of the following:

''(1) The assets transferred pursuant to section 11083.

''(2) The annual Federal payments deposited pursuant to section 11084.

''(3) Any amounts otherwise appropriated to such Fund.

''(4) Any income earned on the investment of the assets of such Fund pursuant to subsection (b).

''(b) INVESTMENT OF ASSETS.—The Secretary shall invest such portion of the assets of the D.C. Federal Pension Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the D.C. Federal Pension Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

''(c) RECORDKEEPING FOR ACTUARIAL STATUS.—The Secretary shall provide for the keeping of such records as are necessary for determining the actuarial status of the D.C. Federal Pension Fund.

''SEC. 11082. USES OF AMOUNTS IN FUND.

''(a) IN GENERAL.—Amounts in the D.C. Federal Pension Fund shall be used—

''(1) to make Federal benefit payments under this subtitle;

''(2) subject to subsection (b), to cover the reasonable and necessary administrative expenses incurred by any person in administering the D.C. Federal Pension Fund and carrying out this chapter;

''(3) for the accumulation of funds in order to finance obligations of the Federal Government for future benefits; and

''(4) for such other purposes as are specified in this subtitle.

''(b) BUDGETING, CERTIFICATION, AND APPROVAL OF ADMINISTRATIVE EXPENSES.—The administrative expenses of the D.C. Federal Pension Fund shall be paid in accordance with an annual budget set forth by the Pension Fund Trustee which shall be subject to certification and approval by the Secretary.

''SEC. 11083. TRANSFER OF ASSETS AND OBLIGATIONS OF TRUST FUND AND FEDERAL SUPPLEMENTAL FUND.

''(a) TRANSFER OF OBLIGATIONS.—Effective October 1, 2004, all obligations to make Federal benefit payments shall be transferred from the Trust Fund to the D.C. Federal Pension Fund.

''(b) TRANSFER OF ASSETS.—Effective October 1, 2004, all assets of the Trust Fund and

all assets of the Federal Supplemental Fund as of such date shall be transferred to the D.C. Federal Pension Fund.

"SEC. 11084. DETERMINATION OF ANNUAL FEDERAL PAYMENTS INTO D.C. FEDERAL PENSION FUND.

''(a) ANNUAL AMORTIZATION AMOUNT.—

''(1) IN GENERAL.—At the end of each fiscal year (beginning with fiscal year 2005), the Secretary shall promptly pay into the D.C. Federal Pension Fund from the general fund of the Treasury an amount equal to the annual amortization amount for the year (which may not be less than zero).

''(2) DETERMINATION OF AMOUNT.—For purposes of paragraph (1)—

''(A) the 'original unfunded liability' is the present value as of the effective date of this Act of expected future benefits payable from the Federal Supplemental Fund; and

''(B) the 'annual amortization amount' means the amount determined by the enrolled actuary to be necessary to amortize in equal annual installments (until fully amortized)—

''(i) the original unfunded liability over a 30-year period,

''(ii) a net experience gain or loss over a 10-year period, and

''(iii) any other changes in actuarial liability over a 20-year period.

''(3) SCHEDULE FOR AMORTIZATION.—In determining the annual amortization amount under paragraph (2)(B), the enrolled actuary shall include amounts necessary to complete the amortization schedules used for determining the annual amortization amount for payments into the Federal Supplemental Fund under section 11053 (as in effect prior to the enactment of this chapter).

''(b) ADMINISTRATIVE EXPENSES.—During each fiscal year (beginning with fiscal year 2009), the Secretary shall pay into the D.C. Federal Pension Fund from the general fund of the Treasury the amounts necessary to pay the reasonable and necessary administrative expenses described in section 11082(a)(2) for the year.

"SEC. 11085. ADMINISTRATION THROUGH PENSION FUND TRUSTEE.

''(a) IN GENERAL.—The Secretary shall select a Pension Fund Trustee to carry out the responsibilities and duties specified in this subtitle in accordance with the contract described in subsection (b).

''(b) CONTRACT.—The Secretary shall enter into a contract with the Pension Fund Trustee to provide for the auditing of D.C. Federal Pension Fund assets, the making of Federal benefit payments under this subtitle from the D.C. Federal Pension Fund, and such other matters as the Secretary deems appropriate. The Secretary shall enforce the provisions of the contract and otherwise monitor the administration of the D.C. Federal Pension Fund.

''(c) SUBCONTRACTS.—Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Pension Fund Trustee may, with the approval of the Secretary, enter into one or more subcontracts with the District Government or any person to provide services to the Pension Fund Trustee in connection with its performance of the contract. The Pension Fund Trustee shall monitor the performance of any such subcontract and enforce its provisions.

''(d) DETERMINATION BY THE SECRETARY.—Notwithstanding subsection (b) or any other provision of this subtitle, the Secretary may determine, with respect to any function otherwise to be performed by the Pension Fund Trustee, that in the interest of economy and efficiency such function shall be performed by the Secretary rather than the Pension Fund Trustee.

''(e) REPORTS.—The Pension Fund Trustee shall report to the Secretary, in a form and manner and at such intervals as the Secretary may prescribe, on any matters under the responsibility of the Pension Fund Trustee as the Secretary may prescribe.

"SEC. 11086. APPLICABILITY OF OTHER PROVISIONS TO D.C. FEDERAL PENSION FUND.

''The following provisions of this subtitle shall apply with respect to the D.C. Federal Pension Fund in the same manner as such provisions applied with respect to the Trust Fund prior to October 1, 2004:

''(1) Section 11023(b) (relating to the repayment by the District Government of costs attributable to errors or omissions in transferred records).

''(2) Section 11034 (relating to the treatment of the Trust Fund under certain laws).

''(3) Section 11061 (relating to annual valuations and reports by the enrolled actuary), except that in applying section 11061(b) to the D.C. Federal Pension Fund, the annual report required under such section shall include a determination of the annual payment to the D.C. Federal Pension Fund under section 11084.

''(4) Section 11062 (relating to reports by the Comptroller General).

''(5) Section 11071 (relating to judicial review).

''(6) Section 11074 (relating to the treatment of misappropriation of Trust Fund amounts as a Federal crime).''.

(b) TERMINATION OF CURRENT FUNDS.—

(1) DISTRICT OF COLUMBIA FEDERAL PENSION LIABILITY TRUST FUND.—Chapter 4 of subtitle A of title XI of such Act (sec. 1—807.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

"SEC. 11036. TERMINATION OF TRUST FUND.

''Effective upon the transfer of the obligations and assets of the Trust Fund to the D.C. Federal Pension Fund under section 11083—

''(1) the Trust Fund shall terminate; and

''(2) the obligation to make Federal benefit payments from the Trust Fund, and any duty imposed on any person with respect to the Trust Fund, shall terminate.''.

(2) FEDERAL SUPPLEMENTAL DISTRICT OF COLUMBIA PENSION FUND.—Chapter 6 of subtitle A of title XI of such Act (sec. 1—811.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

"SEC. 11056. TERMINATION OF FEDERAL SUPPLEMENTAL FUND.

''Effective upon the transfer of the assets of the Federal Supplemental Fund to the D.C. Federal Pension Fund under section 11083—

''(1) the Federal Supplemental Fund shall terminate; and

''(2) any duty imposed on any person with respect to the Federal Supplemental fund shall terminate.''.

(c) CONFORMING DEFINITIONS.—

(1) TRUSTEE.—Section 11003(16) of such Act (sec. 1—801.02(16), D.C. Official Code) is amended by striking the period at the end and inserting the following: '', or, beginning October 1, 2004, the Pension Fund Trustee selected by the Secretary under section 11085.''.

(2) D.C. FEDERAL PENSION FUND.—Section 11003 of such Act (sec. 1—801.02, D.C. Official Code) is amended—

(A) by redesignating paragraphs (3) through (16) as paragraphs (4) through (17); and

(B) by inserting after paragraph (2) the following new paragraph:

''(3) The term 'D.C. Federal Pension Fund' means the District of Columbia Teachers, Police Officers, and Firefighters Federal Pension Fund established under section 11081.''.

(d) OTHER CONFORMING AMENDMENT.—Section 11041(b) of such Act (sec. 1—809.01(b), D.C. Official Code) is amended in the heading by striking ''FROM TRUST FUND''.

(e) CLERICAL AMENDMENTS.—The table of contents of subtitle A of title XI of such Act is amended—

(1) by adding at the end of the items relating to chapter 4 the following:

''Sec. 11036. Termination of Trust Fund.'';

(2) by adding at the end of the items relating to chapter 6 the following:

''Sec. 11056. Termination of Federal Supplemental Fund.'';

(3) by redesignating the item relating to chapter 9 as relating to chapter 10;

(4) by redesignating the items relating to sections 11081 through 11087 as relating to sections 11091 through 11097; and

(5) by inserting after the items relating to chapter 8 the following:

''CHAPTER 9—DISTRICT OF COLUMBIA FEDERAL PENSION FUND

''Sec. 11081. Creation of Fund.
''Sec. 11082. Uses of Amounts in Fund.
''Sec. 11083. Transfer of Assets and Obligations of Trust Fund and Federal Supplemental Fund.
''Sec. 11084. Determination of Annual Federal Payment Into D.C. Federal Pension Fund.
''Sec. 11085. Administration Through Pension Fund Trustee.
''Sec. 11086. Applicability of Other Provisions to D.C. Federal Pension Fund.''.

SEC. 3. ADMINISTRATION OF DISTRICT OF COLUMBIA JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.

(a) PROCEDURES FOR RESOLVING DENIED BENEFIT CLAIMS.—

(1) IN GENERAL.—Section 11—1570(c), D.C. Official Code, is amended by adding at the end the following new paragraph:

''(3)(A) In accordance with procedures approved by the Secretary, the Secretary shall provide to any individual whose claim for a benefit under this subchapter has been denied in whole or in part—

''(i) adequate written notice of such denial, setting forth the specific reasons for the denial in a manner calculated to be understood by the average participant in the program of benefits under this subchapter; and

''(ii) a reasonable opportunity for a full and fair review of the decision denying such claim.

''(B) Any factual determination made by the Secretary pursuant to this paragraph shall be presumed correct unless rebutted by clear and convincing evidence. The Secretary's interpretation and construction of the benefit provisions of this subchapter shall be entitled to great deference. ''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to claims for benefits which are made after the date of the enactment of this Act.

(b) TREATMENT OF MISAPPROPRIATION OF FUND AMOUNTS AS FEDERAL CRIME.—

(1) IN GENERAL.—Section 11—1570, D.C. Official Code, is amended by adding at the end the following new subsection:

''(1) The provisions of section 664 of title 18, United States Code (relating to theft or embezzlement from employee benefit plans), shall apply to the Fund.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 4. ADMINISTRATION OF RETIREMENT PROGRAM FOR POLICE OFFICERS, FIRE FIGHTERS, AND TEACHERS BY OTHER THAN CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—Section 424(c)(21) of the District of Columbia Home Rule Act (sec. 1—204.24c(21), D.C. Official Code) is amended by

striking ''systems'' and inserting the following: ''systems (other than the retirement system for police officers, fire fighters, and teachers)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, I am pleased to rise in support of H.R. 4657, a bill to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and firefighters. This simple reform will streamline the pension process for these individuals and the Federal Government. H.R. 4657 will transfer pension benefit assets that are currently held in two Federal trust funds to a single, newly created trust fund.

The bill also extends to retired judges the same rights of review of benefit denials. These rights include the same review standards for benefits that currently apply to retirees in the D.C. Police Officers' and Firefighters' Retirement Plan.

Mr. Speaker, the bottom line is the Treasury Department presently uses unnecessary resources to maintain two pension funds when only one is needed. H.R. 4657 corrects this. This bill is budget neutral, and I support the passage and am pleased to be joined tonight by the distinguished gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Maryland (Mr. HOYER), who are also cosponsors of this legislation.

Under the Balanced Budget Act of 1997, the Treasury Department and the District of Columbia share responsibility for the D.C. Police Officers' and Firefighters' Retirement Plan and under the defined benefit retirement plan for all District judges.

Originally two separate retirement funds, the Supplemental Fund and the Trust Fund, were created. Unlike the Trust Fund, the assets of the Supplemental Fund had to be invested in public debt securities. This provision was dropped 2 years later as part of an appropriations act, thereby eliminating the primary reason for having two separate funds. So instead of administering two similar funds, the passage of this legislation promotes greater efficiency in the management of D.C. pensions. It also extends to retired judges the same rights of review of benefits denial that currently apply to those in the D.C. Police Officers' and Firefighters' Retirement Plan. This is a matter of fairness and transparency. The retired judges would receive the same standards of review for factual determinations, interpretations, and construction of benefit provisions.

Finally, H.R. 4657 would also transfer administration of the retirement plans from the District of Columbia Office of Financial Operations and Systems in the Chief Financial Officer's Office to the District of Columbia Retirement Board.

The passage of this bill is beneficial to pensioners and the Treasury Department as it promotes more efficient accounting and investing and extends similar treatment to pensioners in all three retirement programs.

I urge my colleagues to support it, and I thank my colleagues for working with me on it.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4657, the District of Columbia Retirement Protection Improvement Act of 2004. I agree with the gentleman from Virginia (Mr. TOM DAVIS) that the time has come to simply provide protection, and the best of protection, to those individuals in the District of Columbia who are in need of reform of their pension.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time and for his help and support and work on this bill. And I want to thank the gentleman from Virginia (Mr. TOM DAVIS), chairman of the full committee, for his help on this bill and his help on so many other bills that enabled the District to function more efficiently.

H.R. 4657 is a significant management efficiency win for the District of Columbia because the bill streamlines the administration of what has been a very complicated pension benefit system for D.C. teachers, police, and firefighters.

I want to thank the chairman and the gentleman from Maryland (Mr. HOYER), Democratic whip, both for their leadership in bringing this important piece of legislation forward.

The legislation promotes more efficient investment, accounting, and financial reporting of two pension funds, the D.C. Federal Pension Liability Trust Fund and the Federal Supplemental D.C. Pension Fund, simply by combining the two funds into a newly created D.C. Teachers, Police, and Firefighters Pension Fund.

The bill also puts into law the appeal rights of those covered by the judges' retirement plan. Employees covered by this plan already have by regulation the same appeal rights as police officers, firefighters, and teachers. This legislation simply codifies those regulations.

In 1997 the Department of Treasury assumed responsibility for the D.C. Teachers' Retirement Plan and the Police Officers' and Firefighters' Retirement Plan. These plans, combined, cover over 11,000 people who retired as of June 30, 1997. Since 1997 about 2,000 additional people have retired and approximately 9,000 teachers, police officers, and firefighters are still working. These individuals are covered by the D.C. Retirement Fund. Currently the District of Columbia Retirement Board has oversight of the investment of the fund while the D.C. Office of Pay and Retirement Services, which is under the Chief Financial Officer, and the D.C. Office of Personnel share oversight of the noninvestment benefit administration functions, including pension benefit determinations and calculations and informing the employees about the retirement fund and counseling them on their benefits and sending out the checks.

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What I just said shows you how this issue has simply grown topsy without anybody thinking through how to bring it together and make it more efficient, because that was almost indecipherable. Imagine if you had to administer this fund trying to figure that out.

Thanks to your leadership, Mr. Chairman, and your willingness to amend this act, the bill now includes a critical provision that will create significant management efficiency for the D.C.-administered retirement plan by giving the D.C. Retirement Board oversight authority over both the investment and the non-investment activities.

This change in law brings the District in line with most State and local retirement plans. This change in local benefits administration was enacted into law by the Mayor and D.C. City Council. Because it amends the Home Rule Charter, congressional action was also required.

I thank you again, Mr. Chairman. I want to thank my colleagues for their work and support on this bill, and urge them to support and vote for H.R. 4657.

Mr. HOYER. Mr. Speaker, I am pleased to support The District of Columbia Retirement Protection Improvement Act of 2004, which I sponsored with Representative TOM DAVIS. This bill makes simple and commonsense improvements to streamline the administration of pension benefits for District of Columbia teachers, police officers, and firefighters.

This legislation eliminates duplication and promotes efficiency in the investment and accounting of D.C. pension funds. In 1997 Congress created two separate funds that operated under different rules. However, Congress has long since acted to eliminate the distinctions between the two funds. This legislation

will take the logical next step of consolidating the two funds and replacing them with the newly created D.C. Teachers, Police, and Firefighters Pension Fund.

I am also pleased that we were able to include provisions supported by Congresswoman ELEANOR HOLMES NORTON and the City government to transfer administration of retirement programs for D.C. Police Officers, Firefighters, and Teachers from the office of the Chief Financial Officer to the D.C. Retirement Board. This provision will consolidate responsibility of retirement benefits and has already been approved by the D.C. Government, but can only go into effect with Congressional action.

Last year, I was pleased to join Congressman DAVIS in sponsoring another bill affecting retirement funds for D.C. Police Officers and Firefighters, the D.C. Military Retirement Equity Act, which was signed into law on November 22, 2003. That law allowed retired D.C. Police Officers, Firefighters, Park Police Officers, and Secret Service employees to "buy back" military service time and credit it toward their retirement in order to avoid cost reductions in their monthly benefit payments.

These changes today will improve the management of pension funds for D.C. Police Officers, Firefighters, and Teachers, many of whom work in the District of Columbia but reside in my home State of Maryland. Police Officers, Firefighters, and Teachers serve our communities every day to ensure that our children are educated, our streets are safer, and our neighborhoods are protected. I am pleased to take this small step to improve the administration of pension benefits for these workers.

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

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

The SPEAKER pro tempore (Mr. KLINE). 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. 4657, 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.

MARTHA PENNINO POST OFFICE BUILDING

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5133) to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building".

The Clerk read as follows:

H.R. 5133

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

SECTION 1. MARTHA PENNINO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, shall be known and designated as the "Martha Pennino Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Martha Pennino Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. 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. 5133.

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

There was no objection.

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

Mr. Speaker, H.R. 5133, sponsored by my friend and colleague, the gentleman from Virginia (Mr. MORAN), designates the postal facility in Reston, Virginia, as the Martha Pennino Post Office. The entire Virginia delegation supports this legislation, and I am pleased to join them tonight.

On September 17, Virginia's Fairfax County, which I represent, lost one of its most influential community leaders, Martha Pennino. I rise tonight to honor and remember Martha Virginia Pennino, a former vice chairman of the Fairfax County Board of Supervisors, with whom I served for 12 years on the board.

Mrs. Pennino died September 17, 2004, at Inova Fairfax Hospital at the age of 86, leaving a long and lasting legacy.

Known as Mother Fairfax, Mrs. Pennino was born in 1918 in Roanoke, Virginia, and was raised in Gloucester, Massachusetts. She received a bachelor's degree from Emerson College in Boston.

Mrs. Pennino served three terms on the Vienna Town Council prior to being elected to the Fairfax County Board of Supervisors in November 1967, representing what was then the Centreville District.

From 1968 to 1991, Mrs. Pennino was at the center of nearly every major decision made in Fairfax County. She was involved with such projects as the Dulles Toll Road, the Reston Hospital Center, South Lakes High School, the Reston Community Center, and the Reston Regional Library.

Mrs. Pennino played an instrumental role in the planned community of Reston, which was taking shape when she took office and was also critical in getting Interstate 66 built inside the beltway.

During her years on the Fairfax County Board of Supervisors, Mrs. Pennino was deeply committed to helping the poor and homeless. She pushed for the building of the Embry Rucker shelter for the homeless, supported building low-cost housing, and buying and renovating the rundown Stonegate apartment complex. Prior to the construction of the shelter, she even provided cots in her supervisor's office and opened it at night for people with nowhere else to go.

Mrs. Pennino received many accolades for her work in Fairfax County. In 1985, she was awarded the Tom Bradley Regional Leadership Award from the National Association of Regional Councils. The group cited her efforts in developing the first energy policy for a metropolitan area, the region's carpool program, and a fair-share housing program. Washingtonian Magazine named her Washingtonian of the Year.

Mrs. Pennino was also involved with many community boards and foundations. She was a member of the Advisory Board of the Northern Virginia Youth Services Coalition, director of the Northern Virginia Community Foundation, a commissioner on the Northern Virginia Regional Commission, and a member of the Board of Visitors of George Mason University.

Additionally, Mrs. Pennino served as President of the Virginia Association of Counties of the Virginia Municipal League and was a member of the Board of Directors of the Metropolitan Washington Council of Governments for 17 years, holding posts of president and chairman.

Mr. Speaker, in closing, I want to express my gratitude to Martha Virginia Pennino for her service to Fairfax County and the mark she has left on her community. She will be sorely missed. In recognition of her dedicated service, I ask that the Reston Post Office be renamed in her honor.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN), the sponsor of this legislation.

Mr. MORAN of Virginia. Mr. Speaker, I very much thank my friend and colleague, the gentleman from Illinois (Mr. DAVIS), and the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the committee, who I know felt very strongly about Martha, having served with her, and was a close friend to her.

As my friend said, on September 17, Fairfax County lost one of its most important and influential citizens ever. Martha Pennino was known as Mother Fairfax. Through her leadership, Martha Pennino helped oversee development of Fairfax County into one the most successful jurisdictions in the entire country. She was a kind and compassionate public servant who made sure that all people were treated fairly, regardless of their circumstance.

Born in Roanoke, Virginia, as the gentleman from Virginia (Mr. TOM DAVIS) said, she grew up in Gloucester, Massachusetts. She lived for many

years in Massachusetts and went to Emerson College in Boston.

Early on she had dreams of becoming a ballerina or an actress. She did have a flare for the dramatic. But her plans changed upon meeting Walter Pennino. She says she knew at the outset that she would be with him for life. They moved to Vienna, Virginia, in the 1950s after her husband took a job at the Pentagon and began searching for a typically American place to live.

What she did not know when she moved to the small town of Vienna, Virginia, in Fairfax County was that through her work she would help transform the county into one of the premier locations, attracting thousands of families from all over the country.

Knowing that she wanted to get involved in her community, not just wanting to stand on the sidelines, Martha Pennino began her public life by serving three terms on the Vienna Town Council. In 1968 she was elected to the Fairfax County Board of Supervisors as a representative of the Centreville District. As the gentleman from Virginia (Mr. TOM DAVIS) said, she served for many years with him. At the time of her election, though, she was only the seventh woman elected to office in Virginia, paving the way for women throughout Northern Virginia.

She continued to serve on the Board of Supervisors until 1991, including 17 years as vice chairman. By the time she left the board, she was the longest-serving woman in office in Virginia. During her tenure, she was involved in most of the major decisions affecting the county and was instrumental in seeing Reston develop into a successful planned community. From the moment she saw Reston as conceived by its founder, Robert E. Simon, she was determined that Reston would be a place where all people would be welcomed and no one would be excluded.

Through her commitment, she saw the very rapid development of projects that included the Dulles Toll Road, South Lakes High School, and the Reston Regional Library, among many other things. She helped create a true sense of community for all those living in this new area.

Martha Pennino also helped establish the Fairfax County Human Rights Commission to help fight discrimination throughout the county. Having lived through the Jim Crow era, she knew that too often people were being treated differently because of their income level or their race, and Martha wanted to ensure that past discrimination had no place in her community.

Martha Pennino will best be remembered by the citizens of Fairfax County for her commitment to the poor and to the homeless in her community. As the gentleman from Virginia (Mr. TOM DAVIS) has said, she opened her office at night for people without a home and provided them a bed and a warm place to rest. She also ensured that with the enormous development occurring in Fairfax County, there would be low-cost housing options for those who needed them and that these buildings would be as aesthetically pleasing as other housing options in the area.

One story that has followed Martha Pennino and perhaps best characterizes her style involves former President Jimmy Carter. When then-Governor Jimmy Carter was running for President, Martha Pennino hosted a party for him. During the party, they ran out of ice. As only Martha could, she asked Jimmy Carter to run out and pick up some more ice at the 7–11, and he did.

I would also like to take a minute again to thank my friend and colleague, the gentleman from Virginia (Chairman TOM DAVIS), for his efforts in seeing this legislation come to the floor, and my colleague and friend, the gentleman from Illinois (Mr. DAVIS), who has helped us bring so many good pieces of legislation to the floor. I know that the gentleman from Virginia (Mr. TOM DAVIS) was a close friend of Martha Pennino, and I know that he as well as we regret her passing.

So in honor of her work to help all residents of Fairfax County, for being an instrumental part in managing the growth of the county, I ask that the Reston Post Office be named after Martha Pennino. In doing so, we honor and remember this remarkable woman so future generations can know what one person can do and what this very special person has accomplished for the benefit of her entire community.

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

Mr. Speaker, again, I had the pleasure of serving on the Fairfax Board of Supervisors with Martha Pennino for 12 years. I want to say I am very grateful for the opportunity to have known her and to have worked with her on so many projects. She was a classy lady, and I am going to miss her.

Mr. Speaker, I urge passage of H.R. 5133.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply would want to commend the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Chairman TOM DAVIS) for their leadership in bringing this important measure to the floor. I urge its passage.

Mr. WOLF. Mr. Speaker, I rise today as a co-sponsor and in strong support of H.R. 5133, legislation to designate a United States Postal Service facility in Reston, Virginia, as the Martha Pennino Post Office.

Martha Pennino, known as "Mother Fairfax," passed away on September 17. She was a leader in Fairfax County, and was instrumental in helping the county achieve the success it enjoys today. She served from 1968 to 1991 on the Fairfax Board of Supervisors, and served as the board's vice chairman for 17 years. Under her leadership, Reston became a successful developed community, and several important projects, including the Dulles Toll Road, South Lakes High School, and the Reston Regional Library, were undertaken.

It is Martha Pennino's dedication to those in Fairfax County with the least that will also be remembered. She was committed to the poor in the community, often opening her office at night to allow the homeless to rest their heads in a warm, safe place. Under her leadership, a homeless shelter was opened in her district, and she was an advocate for low-cost housing in Fairfax County, to help ensure that as the county grew, its poorest residents would not be left out of the county's progress. Martha Pennino's desire for Fairfax County to be an inclusive community is also reflected in her work to help establish the Fairfax County Human Rights Commission. Martha Pennino wanted everyone in Fairfax County to feel that they truly belonged to Fairfax County.

Mr. Speaker, I am proud to support H.R. 5133, and proud to commemorate the life of Martha Pennino, an outstanding leader in Fairfax County, and a tireless advocate for those in need.

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

Mr. TOM DAVIS of Virginia. 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 Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 5133.

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

A motion to reconsider was laid on the table.

SPECIALIST ERIC RAMIREZ POST OFFICE

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5027) to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office".

The Clerk read as follows:

H.R. 5027

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

SECTION 1. SPECIALIST ERIC RAMIREZ POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, shall be known and designated as the "Specialist Eric Ramirez Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Specialist Eric Ramirez Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. 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. 5027.

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

There was no objection.

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

Mr. Speaker, H.R. 5027 pays tribute to the life of a fallen United States hero. Specialist Eric Ulysses Ramirez paid the ultimate sacrifice in defense of this great Nation. Tonight, the House of Representatives remembers his devoted service.

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Specialist Eric Ulysses Ramirez was a model citizen, a husband and a father. He was a sheriff's deputy, and he also served as a National Guardsman.

In February of 2003, Specialist Ramirez and his Guard unit were activated to take part in Operation Iraqi Freedom. Tragically, on February 12 of this year, just 42 days before his tour of duty in Iraq would have been completed, Iraqi insurgents killed Eric in an attack. Eric Ramirez was to have returned from Iraq in March with the 670th Military Police Company.

Eric is survived by his wife, Tracy Bensen-Ramirez, by his young daughter, Isis, and a brand new son, Chase. Last December, Eric was given permission to leave Iraq and return to Florida for his son's, Chase's, birth.

Mr. Speaker, this Post Office at 411 Midway Avenue in Mascotte, Florida, which is Eric's hometown, will be an exceedingly deserved and appropriate commemoration of his life. Eric loved his family. He loved his hometown. He loved this country so much that he fought and struggled and gave his life to defend them.

I strongly urge all Members to join me and also the distinguished gentlewoman from my home State of Florida (Ms. GINNY BROWN-WAITE) to support this legislation that will create the Specialist Eric Ramirez Post Office.

Mr. Speaker, I want to also thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for her efforts and sponsorship of H.R. 5027.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 5027, legislation naming the U.S. postal facility in Mascotte, Florida, after Eric Ramirez.

This measure, which was unanimously reported by our committee on September 15, 2004, was introduced by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) on September 8, 2004. H.R. 5027 enjoys the support and cosponsorship of the entire Florida delegation.

Eric Ulysses Ramirez was born and raised in Florida. He was a graduate of Mount Dora High School in Mount Dora, Florida. He enlisted in the U.S. Navy, served in the National Guard, and was working as a sheriff's deputy in San Diego, California, when his unit was activated. Specialist Ramirez was deployed to Iraq in February 2003.

Sadly, Specialist Ramirez was killed when his unit was attacked. He died on February 12, 2004. He left behind a wife, Tracy; daughter, Isis; and son, Chase.

Mr. Speaker, I commend my colleague for seeking to honor the sacrifice, the diligence and the giving of himself of Eric Ramirez, and I urge passage of this legislation.

Mr. Speaker, at this time, I have no further speakers, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), the sponsor of this legislation.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask my colleagues to join me in honoring the life of a fallen soldier, a man who made the ultimate sacrifice so that we might live free.

Eric Ulysses Ramirez was killed in action on February 12 of this year. He only had 42 days remaining on his tour of duty when he was killed by a rocket-propelled grenade launched by Iraqi insurgents.

Eric gave his life fighting in the sands of Iraq to secure our liberty while granting a new start to an oppressed people. As his friends and family know, Eric was a man of courage who was willing to fight to preserve a safe future for his children and for his countrymen.

In his lifetime, he was a model citizen, husband, father and son, as well as a sheriff's deputy and National Guardsman. He graduated from the Mount Dora High School which is very near Mascotte, and he planned on attending the University of Central Florida, but instead, he enlisted in the Navy for 4 years. Upon his return, his commitment to public service was evident when he took a job as a sheriff's deputy in San Diego.

Specialist Ramirez answered the call to duty yet again when his unit was activated to fight in Operation Iraqi Freedom in February 2003. Tragically, this would be his last mission.

Since the awful day that took the life of this American hero, I have come to know the family that he left behind. His wife, his children and his parents, Reverend and Mrs. Felix Ramirez, who live in Mascotte.

I attended the funeral of this brave young man, and although I did not know him personally, when I attended the funeral, I felt as if I did know him. I was very obviously struck with emotion when I met his parents and learned that his father, Felix Ramirez, was the minister who was conducting the service for his own son. As he conducted the service, I was awe-struck with his courage and with his belief in our American troops and in what his son did to help make Iraq a free country.

Mr. Speaker, I ask the Members of this body to join me in honoring specialist Eric Ramirez's life and his service by naming the United States Post Office at 411 Midway Avenue in Mascotte, Florida, as the specialist Eric Ramirez Post Office.

The beautiful town of Mascotte is where Eric grew up and where his family now calls home. I believe it is the very least that we can do to honor Eric and to repay his family for the son, husband and father that they lost when he fought to defend our freedom.

Lastly, I want to also thank my Florida colleagues for their willingness to support this measure. Passage of this bill is a tremendous bipartisan effort and shows the true compassion of the Florida delegation.

Mr. Speaker, I urge passage of this resolution.

Mr. MICA. Mr. Speaker, I will conclude, yielding myself the balance of my time.

Mr. Speaker, tonight we rise to recognize Eric Ramirez who was lost in service to this Nation. First, I want to thank again the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for bringing this naming of this Post Office Building before the House of Representatives and recognizing one who, again, gave his life in service to this Nation.

It was just one week ago, Mr. Speaker, right below the level where you stand tonight, when we heard the Prime Minister of Iraq Allawi tell us that 1 million Iraqis were murdered or missing, his fellow countrymen, and that over 300,000 to date have been found slaughtered in mass graves. Greater love hath no man than to lay down his life for his fellow man, and here Eric Ramirez gave his life in service to this Nation so that, tonight, every American can enjoy the freedoms that they have, and the people that he never knew or never met have the potential to live in freedom and not see a tyrant continue to murder, to maim and slaughter the people of Iraq.

So we give thanks tonight for the life of Eric Ramirez. We ask that God take him in his arms and all of those who served this Nation and lost their lives and their loved ones tonight in his care and remember them.

So, again, I thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for remembering one American hero tonight, Eric Ramirez, and his family with this great honor.

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

The SPEAKER pro tempore (Mr. KLINE). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 5027.

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

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE IMPORTANCE OF LIFE INSURANCE, AND RECOGNIZING AND SUPPORTING NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 461) expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month.

The Clerk read as follows:

H. CON. RES. 461

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members to meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in three-fourths of surviving family members' having to take measures such as work additional jobs or longer hours, borrow money, withdraw money from savings and investment accounts, and, in too many cases, move to smaller, less expensive housing;

Whereas individuals, families and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA) and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2004 as ''Life Insurance Awareness Month'' the goal of which goal is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes and supports the goals and ideals of ''Life Insurance Awareness Month''; and

(2) requests the President to issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe ''Life Insurance Awareness Month'' with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. 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 concurrent resolution under consideration.

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

There was no objection.

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

Mr. Speaker, House Concurrent Resolution 461 stresses the importance of life insurance. Frankly, I believe the resolution's message is an important one to convey.

According to the text of the resolution, nearly 50 million Americans do not carry life insurance policies. The implication for these families and their loved ones is clear and worrisome. These individuals run the risk of losing their assets in the event of an unexpected death.

Mr. Speaker, a death in the family is one of the most agonizing things a family or individual can endure. Forfeiting one's assets can compound the horrible grief or, worse, wreck the financial standing of the deceased person's immediate family. Life insurance brings security to millions of Americans and helps families meet many of their short- and long-term financial needs and goals. I urge all Americans to incorporate life insurance into their personal financial portfolios.

I understand hundreds of leading life insurance companies and organizations have designated September 2004 as Life Insurance Awareness Month. On behalf of the House of Representatives and our committee, I am pleased to support the goals and ideals of this commemoration.

Mr. Speaker, I thank the distinguished gentlewoman from Illinois (Mrs. BIGGERT), who is a leader in Congress in encouraging Americans to be prudent with their personal finances. Again, few things are more important for a person or family than effectively managing their financial resources. So I commend my colleague on her efforts to recognize, again, the importance of life insurance in our society.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Con. Res. 461, which expresses the sense of Congress regarding the importance of life insurance and recognizes and supports National Life Insurance Awareness Month.

Like so many Americans, I worry about the financial security and solvency of my own family. With the economy worse than it has been since the early 1990s, many American families are strapped for money and forced to make difficult decisions about where to spend the precious resources they have and still make ends meet.

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During these difficult times, some parents are forced to choose between providing for loved ones now or securing their future. Life insurance is an important financial resource for loved ones in the event of death, and it should not be overlooked when financial resources are limited.

The necessity of life insurance is well documented. Recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the deceased often results in the surviving family members being placed under an insurmountable burden. Adult members are forced to work longer hours or take on extra jobs, borrow money, and spend less time with their children. Worse yet, this occurs when it is most important that family members spend time together in order to heal and recover from their tragic loss.

By designating September as Life Insurance Awareness Month we are putting aside a time for families to learn and to educate themselves about life insurance. As a society, we must take steps to make sure that our children are provided for and are safe. Almost 50 million Americans say that they have insufficient life insurance to care adequately for their loved ones in case of death. By supporting Life Insurance Awareness Month, we are signaling to the American people that this is an important issue that they should consider for the well-being of their families.

I know that oftentimes people will come by my office after the death of a loved one, and they will often have insufficient funds even for a burial, and collections are taken up. By making sure that we have life insurance coverage prevents these situations from occurring. I want to commend the maker of this legislation.

Mr. Speaker, I do not believe that I am going to have any additional requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield as much time as she may consume to the distinguished gentlewoman from Illinois (Mrs. BIGGERT), a colleague of mine and author of this legislation and resolution.

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

Mr. Speaker, I rise today to urge my colleagues to support House Concurrent Resolution 461, which supports the goals and ideals of designating September as National Life Insurance Awareness Month.

I want to thank my friend the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member of the Committee on Financial Services, for introducing this resolution with me and for his support on this important issue. He could not be here this evening, and I would submit his testimony under general leave.

I also want to thank the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from Florida (Mr. MICA) for moving this resolution through the Committee on Government Reform expeditiously and, of course, my good friend on the committee the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, life insurance is too often thought of only when it is too late. How many times have any of us heard friends or loved ones sadly reflect that the deceased had no life insurance or had too little life insurance? Today, only 4 in 10 adult Americans own an individual life insurance policy, and among those who do have life insurance the amount is often too small to safeguard the financial future of their loved ones.

Because of insufficient coverage, family members are often forced to take a second job, to work longer hours, borrow money, or sell the family home. In short, these outcomes are only the symptoms of the crisis of underinsurance that exists in our Nation today.

Mr. Speaker, many of my colleagues on both the Committee on Financial Services and the Committee on Education and the Workforce have been working very hard to increase the level of financial literacy and economic education in this Nation. Understanding how financial products work and how they can work to build financial security are two important ingredients in a complete financial education.

To call attention to the problem of the uninsured and the underinsured, the Life and Health Insurance Foundation for Education, the National Association of Insurance and Financial Advisers, and many other leading insurance companies and organizations designated September 2004 as Life Insurance Awareness Month. They have launched programs to reach out to Americans and educate them about life insurance, and my colleagues might have seen some of their ads on TV.

The goal of this resolution is to further educate Americans about the importance of life insurance to a sound financial plan. Losing a family member is painful enough without it being compounded by financial difficulties.

It is my hope that recognizing Life Insurance Awareness Month will motivate Americans to seek out information about the benefits of life insurance so that if the premature death of a loved one does occur, they will be spared the economic hardships that often accompany tragedy.

I ask my colleagues to join me in supporting designating September 2004 as Life Insurance Awareness Month.

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

Again, I want to thank the gentlewoman from Illinois for her work and also the gentleman from Pennsylvania (Mr. KANJORSKI) for his efforts in preparing House Concurrent Resolution 461. I urge my colleagues to support this resolution.

Mr. KANJORSKI. Mr. Speaker, I rise today to offer my thoughts about House Concurrent Resolution 461, which I helped to introduce with the gentlelady from Illinois (Mrs. BIGGERT). House Concurrent Resolution 461 would designate September as National Life Insurance Awareness Month.

Life insurance is a financial planning tool that all families should explore. It can provide security in the event of an untimely death. In families where a premature death occurs, surviving family members are often required to work additional jobs or longer hours, borrow money, withdraw money from savings and investment accounts, and, in too many cases, move to smaller, less expensive housing.

By designating September as National Life Insurance Awareness Month, we will hopefully highlight the importance of this financial instrument for the nearly 50 million Americans who presently lack the life insurance coverage needed to meet the long-term financial needs of their families.

In closing, I urge my colleagues to support this important resolution to promote financial literacy.

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

The SPEAKER pro tempore (Mr. CHOCOLA). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 461.

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

A motion to reconsider was laid on the table.

SERGEANT RIAYAN A. TEJADA POST OFFICE

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4046) to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the ''Sergeant Riayan A. Tejada Post Office,'' as amended.

The Clerk read as follows:

H.R. 4046

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

SECTION 1. SERGEANT RIAYAN A. TEJEDA POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 555 West 180th Street in New York, New York, shall be known and designated as the ''Sergeant Riayan A. Tejeda Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Sergeant Riayan A. Tejeda Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. 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. 4046, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, tonight I rise in support of H.R. 4046. This measure designates a postal facility in New York city as the Sergeant Riayan Tejeda Post Office. Each member of the New York State delegation cosponsored this tribute to one of America's fallen heroes.

On April 11, 2003, 26-year-old Sergeant Riayan Tejeda of the 3rd Battalion, 5th Marines, was tragically killed in combat in Baghdad. He was a true American hero, despite not being a United States citizen.

Riayan was born in the Dominican Republic and moved with his family to the United States as a child. From the time he first arrived in America, he dreamed of becoming a United States marine. Upon graduation from high school in upper Manhattan, he enlisted in the Marine Corps where he served for some 8 years.

Sergeant Tejeda worked hard as a soldier, and he became the best sniper in his regiment. He proudly served in Thailand, South Korea, the Philippines, Australia, East Timor and Iraq.

Sergeant Tejeda never earned United States citizenship during his life but he was awarded posthumously that citizenship of this great Nation.

Sergeant Tejeda is survived by a mother, a father, and two young daughters, ages 3 and 6.

Riayan Tejeda loved being a marine. He loved America. For these reasons and for his service and for his patriotism to his adopted native homeland, I urge my colleagues to join me in honoring Sergeant Riayan A. Tejeda by naming this post office after this hero.

Mr. Speaker, I wish to thank the distinguished gentleman from New York, the sponsor of H.R. 4046, for honoring this tremendously brave young man.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 4046, legislation naming a United States postal facility in New York, New York, after Sergeant Riayan Tejeda.

This measure, which was unanimously passed by our committee on September 15, 2004, was introduced by the gentleman from New York (Mr. RANGEL) on March 25, 2004. H.R. 4046 enjoys the support and cosponsorship of the entire New York delegation.

Riayan A. Tejeda was a Dominican citizen who came to the United States at the age of 12. He graduated from the Fashion and Design High School in New York and joined the United States Marines. He was assigned to the 3rd Battalion, 5th Marine Regiment in Camp Pendleton, California.

Sadly, Staff Sergeant Tejeda was killed in a battle that followed the fall

of Baghdad on April 11, 2003. He was awarded the Silver Star, and he later received his citizenship posthumously.

Sergeant Tejeda left behind a wife and two young children.

Mr. Speaker, I commend my good friend and colleague for seeking to honor the sacrifice of Marine Staff Sergeant Riayan Tejeda by naming a United States postal facility in his honor. I know that the gentleman from New York (Mr. RANGEL) had hoped to be here to make some comments relative to this legislation. Unfortunately, he was unable to do so.

Mr. Speaker, I have no further speakers, and I yield back the balance of our time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume in concluding.

Mr. Speaker, tonight we rise to recognize another fallen hero, one not a native of the United States, a native of the Dominican Republic, but someone who gave his life in service to this Nation, someone who gave his life so that others may live in freedom.

This is a small token of recognition by the Congress to name this post office in New York after Sergeant Riayan Tejeda, but it is an important recognition of his service. It is also important to recognize that he did love this country and that posthumously he was made a citizen of the United States.

So, on behalf of the New York delegation, on behalf of the sponsor, the gentleman from New York (Mr. RANGEL), it is my honor to present to the House this resolution naming the Sergeant Riayan Tejeda Post Office again in New York.

I urge passage of this resolution.

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 Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 4046, as amended.

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

The title of the bill was amended so as to read: ''A bill to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the 'Sergeant Riayan A. Tejeda Post Office'.''.

A motion to reconsider was laid on the table.

EVAN ASA ASHCRAFT POST OFFICE BUILDING

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5147) to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the ''Evan Asa Ashcraft Post Office Building''.

The Clerk read as follows:

H.R. 5147

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

SECTION 1. EVAN ASA ASHCRAFT POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, shall be known and designated as the ''Evan Asa Ashcraft Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Evan Asa Ashcraft Post Office Building.

The SPEAKER pro tempore (Mr. CHOCOLA). Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. 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. 5147, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to support this legislation sponsored by the distinguished ranking member of the Committee on Government Reform, the gentleman from California (Mr. WAXMAN). Upon enactment of H.R. 5147, this post office will forever carry the name of Evan Asa Ashcraft. Evan Asa Ashcraft was an army sergeant with the 101st Airborne Division.

Mr. Speaker, Sergeant Ashcraft was killed in Iraq on July 24, 2003, when his convoy came under attack from Iraqi militants. Sergeant Ashcraft led a division that took part in the assault in northern Iraq that killed Saddam Hussein's sons Uday and Qusay. Evan was 24 years old. All Americans, and those who knew this young man, have felt a terrible loss.

Evan's family said that the West Hills, California, native had planned to join the Los Angeles Police Department on his scheduled discharge from the Army in what would have been January of 2004. His father-in-law, LAPD Lieutenant Loren Farell said the following after Evan passed away, and I quote: ''He was a good soldier. He would have made a great cop. As for the rest of us, Evan, you are a hero to all of us and you are a hero to your country.'' Those are the words of Mr. Farell.

Lieutenant Farell's poignant words speak for all Members of the House tonight. Evan Ashcraft was a proud American soldier and his toils simultaneously helped to liberate a nation from oppression and defend the world from tyranny. Evan is survived by his loving wife, Ashley.

Once again, Mr. Speaker, I urge the pass of this legislation tonight to honor one of our fallen heroes, Evan Ashcraft.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague, the gentleman from Florida (Mr. MICA), in consideration of H.R. 5147, which names the post office in West Hills, California, after Evan Asa Ashcraft.

Sergeant Ashcraft, a native of West Hills, California, joined the U.S. Army in 2000, specifically the 101st Airborne Division, the Screaming Eagles, based at Fort Campbell, Kentucky. As a member of Company A, 1st Battalion, 327th Infantry of the 101st, Sergeant Ashcraft was deployed to Iraq in March of 2003.

Shortly after his arrival, he rescued two wounded soldiers, saving their lives. Sadly, he lost his life in 2003 after the Humvee he was driving was hit by enemy rockets.

Sergeant Ashcraft was awarded the Silver Star and the Purple Heart. He leaves behind a wife, his parents, a brother, and many other family members. I commend my colleague, the gentleman from California (Mr. WAXMAN), the ranking member of the Committee on Government Reform, for seeking to honor the sacrifice of Evan Asa Ashcraft by naming a postal facility in his hometown, and I urge swift adoption of this bill.

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

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume to conclude.

Mr. Speaker, tonight we have recognized three heroes who lost their lives in service to this Nation. It is a small token of appreciation that this Congress extends to recognize these heroes. One was not a citizen of this country, a native of the Dominican Republic, who we honored with citizenship after he gave his life in service to this country. Evan Asa Ashcraft is being recognized with H.R. 5147.

Each of these are precious lives and each of these are a great sorrow and loss for their families. We must think and reflect upon all of these heroes, some from my district. And I have attended some of those funerals, consoled some of the loved ones who lost their sons. Tonight we do recognize again three heroes who served this Nation and we wonder about the greatness of this Nation, how men and women can go forth and their families can sacrifice them in causes that sometimes seem remote.

I remember speaking to a high school graduation class in central Florida. A young man in that class went in service to this Nation and was murdered 2 years later by terrorists in Khobar Towers, Brian McVeigh, who I never forget, and many other young men and women who have lost their lives both in combat and by accident in service to this Nation in Iraq.

I think of those who lost their lives to remove a thug and a drug dealer from Panama. I think of those who lost their lives in Europe and Kosovo, in that region of the world, to restore stability. And I think how great these American heroes are that not only allow us to live in freedom, with liberty and a system of justice, but to let others have that potential across the globe.

Sometimes it succeeds and sometimes it does not, but they have given their full measure and their families have given their loved ones so that others may have even the potential of enjoying the freedoms that we Americans take for granted.

So tonight we have honored three American heroes, and, finally tonight I ask the House to pass H.R. 5147 and name a post office building in honor of Evan Asa Ashcraft.

Mr. WAXMAN. Mr. Speaker, I rise to ask my colleagues to join me in honoring the life of a young man, Evan Asa Ashcraft, whose life was cut short serving our nation in Iraq. H.R. 5147, which has been cosponsored by the entire California delegation, would name the post office located at 23055 Sherman Way in West Hills, California the "Evan Asa Ashcraft Post Office."

Evan Ashcraft was smart, talented, and energetic. He represented the very best of American values. From an early age, he excelled in school, first at Welby Way Gifted Magnet School in West Hills, then at Nobel Middle School Magnet in Northridge and El Camino Real High School in Woodland Hills.

Evan was devoted to his family—his wife, Ashley, his mother, Jane, his father, Asa, his younger brother, Drew, his stepmother, Beverly, and his two stepsisters, Felicia and Theresa.

By all accounts, Evan was extremely dedicated. Anything he put his mind to, he accomplished in grand fashion, and his service in the military was no exception. He enlisted in the Army at the age of 20, and it did not take long for his superior officers to recognize that he was a gifted soldier. Midway through his basic training, Evan was made a team leader.

Evan enjoyed his time with the 101st Airborne division. As was often the case in his life, however, he sought a greater challenge and volunteered for duty with the elite Army Rangers. Unfortunately, he was injured during training and returned to Company A, 1st Battalion, 327th Infantry of the 101st.

On March 1, 2003, Evan was deployed to Iraq as part of Operation Iraqi Freedom. He saw action quickly, participating in the liberation of Baghdad International Airport and the mission that found two of Saddam Hussein's sons, Uday and Usay.

A month later, the Humvee Evan was riding in hit a land mind and came under enemy fire. Both soldiers accompanying Evan were badly wounded and in desperate need of medical attention. Showing no regard for his own safety, Evan risked his life to pull the two men to safety. According to others on hand that day, were it not for Evan's quick and decisive action, both men would have died.

One of the men Evan saved that day, Sergeant Arcebuce, said, "Evan was always there for his men. He was a natural born leader."

Like so many soldiers in Iraq, Evan had big dreams for his life after the war. He planned to move back to California with his wife, Ashley, start a family, and join the Los Angeles police force. His reason for doing so was simple according to Ashley: "He was a person who really wanted to help other people, to protect them."

Evan was not able to realize his dreams. He was killed with two other soldiers on July 24, 2003, when his Humvee was attacked during a reconnasissance mission near Mosul.

To the people who knew him, Evan represented hope for America's future. After he died, his mother wrote, "This loss is not just mine, it's the world's loss . . . Evan will always be with us in spirit. He still lives, and will continue to live, in all of us." Evan was awarded the Bronze Star for bravery, and was posthumously awarded the Purple Heart and the rank of Sergeant.

By naming a post office in Evan's honor in his hometown of West Hills, his community and a grateful nation will always be reminded of the life, the contributions, and the ultimate sacrifice of this extraordinary young man.

I urge unanimous support for H.R. 5147.

Mr. MICA. 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 Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 5147.

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

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore laid before the House the following privileged message from the Senate:

SEPTEMBER 14, 2004.

Ordered, That the Secretary be directed to request the return to the Senate (S. 2261) entitled "An Act to expand certain preferential trade treatment for Haiti.", in compliance with a request of the Senate for the return thereof.

Attest:

EMILY J. REYNOLDS,
Secretary.

The SPEAKER pro tempore. Without objection, the request of the Senate is agreed to, and S. 2261 will be returned to the Senate.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for special order speeches without prejudice to the resumption of legislative business.

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.

ASSAULT WEAPONS BAN

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. Two weeks ago, this House stood idly as the federal ban on assault weapons expired. The House ignored two-thirds of the public, over half of gun-owners, and nearly every law enforcement organization in America in favor of the NRA's leadership's extreme agenda against common sense.

Fortunately, I live in a state that enforces its own assault weapons ban. While the state ban is not as effective a tool as the federal ban was to keep personal weapons of mass destruction out of the hand of criminals and terrorists, it does make it more difficult for them to acquire assault weapons.

However, this week the House leadership, which pretends to be a friend of the sovereignty of state and local governments, will allow a vote on a bill keeping popularly elected officials form banning assault weapons and other guns from their jurisdictions.

This week the House will vote on legislation introduced by a member from Indiana ending the ban on firearms in the District of Columbia. The popularly elected Mayor, City Council, and U.S. Delegate to the House all oppose ending the ban. Federal courts have upheld the constitutionality of the DC ban. In fact, the only support for ending the DC gun ban comes from politicians that do not represent the District.

The District will go from having the toughest gun laws in America, to becoming the subject of a twisted social experiment brought to us by the NRA. Those listed on terrorist watch lists prohibited form boarding planes at Reagan National Airport will be able to purchase a handgun, AK–47, or TEC–9 only blocks away from the White House or Capitol Building. Just today, I received a letter from the House Sergeant at Arms detailing the new security recommendations put in place to keep our offices safe. Passage of this legislation cannot be viewed as anything other than counterproductive to these efforts.

Proponents of this legislation say the DC ban has not been effective, citing the District's crime rates, which are not unlike many other large urban communities in the United State. However, the homicide rate in the District is at an all time low, thanks to the Metropolitan Police Department's efforts to get guns off the streets. The DC ban has been a valuable took in these efforts, but once again House leadership refuses to listen to those most effected by the ban's end.

Granted, the DC gun ban's effectiveness has been hampered by the District's proximity to gun dealers in Virginia and Maryland, but that is no excuse to make it easier for criminals and terrorists to purchase guns in DC.

And while the House leadership's grasp of basic economic principles has been questionable throughout the 108th Congress, one must acknowledge that once the supply of guns is increased, the prices of these weapons will decrease.

Thanks to this legislation, gang members who could only afford to purchase one gun will most likely be able to get two thanks to increased supply and lower prices.

It it only a matter of time before the first crimes are committed with a gun purchased legally in our nation's capital. When that time occurs, the House Leadership must be prepared to explain to the victims of these crimes

why it is so important that the NRA's twisted worldview must come before DC residents' wishes and safety.

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

CONGRESS SHOULD NAME POST OFFICES, BUT NOT AT EXPENSE OF ITS RESPONSIBILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, on the subject of the marriage amendment, the House majority leader said earlier today, ''It is our job to make the laws in this country. And as easy as life would be for us, if the most controversial bills we had to vote on was to rename a post office, that's not what we were elected to do.''

I find it ironic that the majority leader used the naming of post offices, especially for this Congress. I have done my own research. As it turns out, this Republican Congress, the 108th Congress, the House and the other body, has been hard at work at naming post offices. In fact, under the Republican leadership, we have named an impressive 92 post offices, and we just did 4 more today.

We have also named 22 Federal buildings, passed 34 resolutions honoring athletic teams, and introduced 35 resolutions creating commemorative postage stamps. That is in stark contrast to when the Republicans first took control of the House in the 104th Congress. They only managed to name 12 post offices. This Congress has done 92.

In the 106th Congress, they only squeaked out a pitiful three resolutions honoring sports teams and sports achievements. Clearly, the 108th Congress, this Republican Congress, has proven to be the most adept at naming post offices and Federal buildings, and honoring sports achievements and conceiving of new postage stamps.

Now, let me tell you something; it takes a lot of time and effort to name a post office. First, you have to decide which post office. Then you have to figure out what name. Then you have to pick a name and build support for it among your colleagues. The final test is to get a vote on the name, which is no small feat when you consider that, historically, only 1 out of every 100 bills ever sees a floor vote. In this Republican-led Congress, however, 80 percent of the post office naming bills introduced in the House have actually passed. That is something to be proud of.

But while we have spent all this time naming post offices, we could have been dealing with the problems which are facing the American people. After all, while this Congress is busy alleviating the apparent backlog of nameless post offices in America, we have lost 1.7 million private sector jobs. Median household incomes have fallen by more than $1,500. Household bankruptcies have skyrocketed, and today we see in articles that health care costs in America are rising at close to three times the rate of inflation.

□ 2100

In Iraq, more than 1,000 Americans have been killed. Reconstruction has been pushed to the sidelines. There is mounting violence, and we have not found any weapons of mass destruction or had any oversight hearings in this Congress as to why we went to war on that premise.

Mr. Speaker, today the majority leader quoted former President John Kennedy in justifying the votes we had. So in the same spirit, I will quote President Kennedy: ''To govern is to choose.'' And unfortunately this Congress, the Republican Congress, has made some tough choices. Time after time the Republican leadership has been forced to choose at their own making between naming post offices and using its control in the House, Senate, White House, and Supreme Court to improve the lives of millions of Americans. More often than not the Republican Congress has chosen to name post offices.

Please do not misunderstand. I am not opposed to naming post offices. In fact, I cosponsored a few of them myself. Congress should do these things, but we should not do it at the expense of our other responsibilities.

We should not do it as an excuse not to deal with the health care crisis, not to deal with the access to higher education crisis we have in America, not to deal with the fact that wages and income are stagnant in America, not to deal with the fact that we have a war being waged and we do not have a policy or a President that is cognizant of the fact that it is a burning morass, as three leading Republican Senators said last week.

We have only passed one of the 13 appropriations bills we are required to pass. We have not passed a Transportation bill that we are required to pass that would employ millions of Americans. We have not passed a higher education reauthorization bill as we are required to pass. We have not passed a budget under a Republican Congress. We have failed to reauthorize a series of things we are required to do, and yet we have taken on the responsibility of naming 92 new post offices.

Our Nation and economy rely on the most basic functions of this Congress, yet we have failed in both those activities. We can do better. Congress can name post offices and keep our Nation moving forward.

Mr. Speaker, Election Day is only weeks away. I hope when the American people go to the polls, it will reflect on the kind of job this Congress has done. The Republican leadership made their priorities clear. The 108th Congress will be remembered for its leadership on the naming of post offices.

PROSECUTING GLOBAL WAR ON TERROR

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Oklahoma (Mr. COLE) is recognized for 5 minutes.

Mr. COLE. Mr. Speaker, I rise today to speak about the tremendous job our soldiers, sailors, airmen, and Marines have been doing in prosecuting our global war on terror.

Just recently, I returned from a trip where I visited both the Afghan and Iraq theater of operations. Last year, I made a similar trip to Iraq, and now I can say with some certainty that we have made demonstrable progress.

Americans should not think we are without friends in this region. President Musharraf of Pakistan has been a brave and determined ally in the fight against terrorism. Strong leaders such as President Karzai and Prime Minister Allawi are beginning to emerge in Afghanistan and Iraq. They have put their lives on the line and trusted the word of the United States. We must not let them down, for our security is linked with their success in rebuilding their countries and defeating terrorists.

Mr. Speaker, with respect to Iraq, U.S. forces are achieving daily successes in confronting terrorists while Iraqi troops and police are starting to undertake the tough everyday work of rebuilding and defending a civil society. In a recent Armed Forces hearing, Army Colonel Michael Linnington, former brigade commander with the 101st Airborne Division, testified that it was not uncommon for his troops to be building schools by day and patrolling for insurgents at night. Or for that matter, it was not uncommon for U.S. troops to be fighting insurgents in one part of a town while helping with elections in another part. The troops believe in their mission and are committed to seeing it through.

Mr. Speaker, our troops have met with daily success in Iraq. However, some observers have not accurately portrayed the results of their efforts. Moreover, it is important to note that we are not the only country suffering casualties in the fight for a free Iraq. In addition to our Coalition allies, hundreds of Iraqi policemen and national guard members have been killed as they fight to ensure the future of their own country.

With respect to Afghanistan, it is quite clear that the Afghani government is progressing in securing modern rights for its people every day. Mr. Speaker, over 10 million people have registered to vote in the upcoming October presidential election in Afghanistan, and 5 million Afghanis are now

enrolled in school. There are many civilian-military projects under way, and infrastructure reconstruction is beginning to reappear. The Coalition forces have changed the lives of the Afghanis and are providing them with opportunities that they never dreamed they could have.

Mr. Speaker, in Afghanistan, we met with interim President Hamid Karzai. He was effusive in his thanks to America and the work of U.S. troops. In particular, he praised the work of Oklahoma's 45th Infantry Brigade that has worked so hard to train the Afghan Army. This is just one example of the countless accomplishments of our citizen soldiers from across our Nation. The Afghani Army is now fighting hard and performing well in the hunt for al Qaeda and the Taliban.

Mr. Speaker, I do not pretend to know when our global war on terrorism will end. This is not a war we sought. We engaged in hostilities only after being attacked. This is a war which has far-reaching implications and will determine the kind of world we leave for our children and grandchildren.

America has a clear choice. We can go the way of some who suggest that we withdraw into isolationism, or we can secure the peace for our progeny by expanding the frontiers of liberty and democracy into the Middle East. While the debate surrounding our actions is legitimate, I truly believe that the answer is clear if one takes the time to look at the implications of not vigorously prosecuting this war. To be secure at home, we must act forcefully abroad. In the war on terror, ''fortune favors the bold.''

Mr. Speaker, I am happy to report that our servicemen and citizen soldiers are doing fine work in representing the very best America has to offer.

THREATS MADE BY AZERBAIJAN AGAINST ARMENIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to bring attention to recent statements made by high-ranking government officials in Azerbaijan that threaten the security of Armenia as well as the efforts towards a peaceful settlement over the Nagorno-Karabagh conflict.

This issue, if not compellingly addressed by the administration, has the potential to undermine U.S. interests and American values in the strategically important Caucasus region.

I refer to the recent remarks made by officials in the government of President Aliyev calling into question the very existence of Armenia. For example, as reported by Radio Free Europe, the Azerbaijani Defense Minister spokesman called for Azerbaijan's takeover of the entire territory of Armenia and removal of the entire Armenian population from the Caucasus. He went so far as to say, ''Within the next 25 years there will exist no state of Armenia in the south Caucasus.'' Given Azerbaijan's history of aggression against Armenians, these remarks cannot be dismissed as mere rhetoric.

Furthermore, Azerbaijan recently blocked key NATO exercises in the country, due to their opposition towards having Armenian officers taking part in the exercises. In fact, in June 2003, Armenia served as the host country for similar exercises, to which Azerbaijani military forces were invited, yet refused to participate. This year, Armenia was one of several dozen countries due to participate, yet the initiative was blocked by Azerbaijan, which is continuing its efforts to undermine the prospects for peace in the Caucasus region.

Azerbaijan's threats again Armenia's survival reinforce our commitment to maintaining parity in U.S. military aid to Armenia and Azerbaijan. This arrangement means even more today than when it was first put in place, particularly in light of Baku's increasingly aggressive posture towards Armenia. Any tilt in military spending towards Azerbaijan could, in our view, destabilize the region by emboldening the new Azerbaijani leadership to continue their threats to impose a military solution of the Nagorno-Karabagh conflict.

Just last week, the Republic of Armenia celebrated Independence Day marking 13 years of freedom from Soviet rule. We have seen considerable economic growth in the country. Despite the continuing illegal blockade by Turkey and Azerbaijan, a recent Wall Street Journal study found that Armenia remains the most economically free nation in the region. Today, Armenia is steadfast in its support of the U.S., as exhibited by their recent announcement of plans to send a unit of deminers, doctors and 50 trucks, including staff and drivers, to assist the Coalition forces in Iraq.

It is critical to note that Armenia is today, as it has always been, committed to the peace process and the terms agreed to in the Key West summit. Since the beginning of the Nagorno-Karabagh and Azerbaijan conflict, Armenia has been committed to finding a peaceful resolution. Moreover, I cannot stress enough the crucial role that the U.S. plays in the negotiations over Nagorno-Karabagh to help the people of this region find a lasting and equitable peace. These threats by Azerbaijan undermine these efforts and seriously complicate our diplomacy in the region. A failure on our part to forcefully and publicly confront the Azerbaijan government over these destabilizing threats would, in our view, send extremely dangerous signals to Azerbaijan.

So, Mr. Speaker, I hope that the United States takes action to condemn these remarks by the Azerbaijani government, and that we here in this Chamber do everything we can to ensure that all parties involved in this conflict make a genuine commitment towards peace and stability in the region.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD 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 Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. RYAN of Ohio. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

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

There was no objection.

TRANSLATION BACKLOG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I want to extend the remarks of the gentleman from Illinois (Mr. EMANUEL) where he talked about what this Congress has been doing. I think we also should be afraid of what this Congress is not doing. I would like to talk this evening for just a few minutes about an Inspector General's report which has been issued that looked at the behavior of the FBI and their translation of intelligence tapes that they were gathering since September 11.

Now, we found out on September 10, 2001, the day before the horrendous attacks in New York and Pennsylvania and at the Pentagon, that a couple of conversations that were intercepted by the National Security Agency had a couple of messages. One said ''Tomorrow is zero hour.'' Another said, ''The match is about to begin.''

The problem, Mr. Speaker, is that these messages were not translated into English to be analyzed by the FBI until several days later. So this Congress and this President decided to slightly increase the funding for interpreters and linguists to be able to help gather some of this information because if we were able to gather the information and translate it, we would know what the enemy was thinking.

So the FBI Inspector General did a report analyzing where we are today, several years later. Checked us out. Mr. Speaker, 120,000 hours of tape, of potentially valuable terrorism-related

recordings, have not yet been translated. Now potentially valuable terrorism-related recordings means languages associated with terrorism, 120,000 hours not even looked at.

A computer, several computers, supposedly systematically erased some of al Qaeda's recordings. We are erasing them before we even look at them. There is 500,000 hours for all languages not yet translated. That is 30 percent, and 20 percent of the total of the 120,000 hours of potentially valuable terrorism-related recordings.

The rule at the FBI is that audio recordings related to al Qaeda must be reviewed in 12 hours. We obviously learned from what happened on September 10 and September 11 and made this rule that within 12 hours we want all of this translated. The fact of the matter is after the IG's report, 36 percent of al Qaeda recordings were not translated within 12 hours. In fact, there are 50 cases where we missed the deadline of translation by a month.

□ 2115

Why is this important? Obviously because of what we learned on September 10. This President and this Congress says that the central battle, the central front on the war on terrorism was Iraq, and we are stuck in a quagmire with over 1,000 dead soldiers, thousands of wounded soldiers, thousands of dead Iraqis, innocent Iraqis. But another component of this major war on terror was that we were going to overhaul governmental translation capabilities and we have not done it. Those of us who did not think it was a good idea to go to war were saying spend $200 billion securing our ports, securing our airports, making sure we check the cargo that is going in the planes, make sure we hire enough linguists, make sure we are translating all of these tapes. And we are not doing the job in the United States of America.

This is not brain surgery. They are communicating with each other over faxes, e-mails, telephone conversations, cell phones. Why would we not hire enough FBI agents to figure out what they are saying? Because this President had to go to war. This was not glamorous enough for this President, in the trenches, doing what it takes, day by day by day. One hundred twenty thousand hours of tapes that were not even translated. We spent $48 million trying to increase the number of people we hired, and we only hired 300 more, but we have $1.3 billion spent every week in Iraq. Our priorities are screwed up.

The SPEAKER pro tempore (Mr. CHOCOLA). Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan 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 New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

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

There was no objection.

SMART SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, all of us who have listened to the suspension debates just before the Special Orders have to acknowledge that there are not nearly enough post offices in this country to honor all of those who have fallen as heroes in Iraq. We have to do something about that. In fact, when it comes to Iraq, the White House does not seem to know which way is up. Instead of relying on facts and truth, the Bush administration has two-timed the American people by relying on doublespeak, innuendos and, worst of all, bald-faced lies.

Last week, Secretary of Defense Donald Rumsfeld stated that Iraq's elections will occur in January of 2005 regardless of what happens on the ground there. Even if half of Iraq's provinces are under the control of insurgents, preventing Iraqis from getting to the polls, elections will still take place. Secretary Rumsfeld validated this type of sham election by saying that, and I quote him, no election is perfect. Does that mean he would endorse an American Presidential election if only 25 of 50 States were able to participate? Then again, perhaps that is exactly what this administration would endorse.

Subsequent to Secretary Rumsfeld's remarks, Secretary of State Colin Powell had to slow down the administration's gears regarding the election issue, stating that the country must be secure for elections to take place. On ABC's ''This Week'' program, Secretary Powell also stated that, ''Yes, it's getting worse in Iraq. We have seen an increase in anti-Americanism in the Muslim world.''

Getting worse in Iraq? That is one of the biggest understatements yet from the administration that specializes in understatements. During the past 2 weeks, 29 United States soldiers and at least 250 Iraqis have been killed, not to even mention how many of our troops have been severely wounded. U.S. forces now face 70 attacks by insurgents daily. That is up from 40 to 50 hostile incidents that occurred each day before the U.S. transferred authority to Iraq's interim government.

Contrast Secretary Powell's comments about Iraq with the unnecessarily rosy statements given by President Bush and his mouthpiece in Iraq, interim Iraqi President Ayad Allawi. Despite a disturbing wave of violence in the past several weeks, our President recently stated that Iraq is showing signs of steady progress. He has also made the outrageous claim that only a relative few of the 25 million Iraqis are trying to stop the march of freedom. In fact, there are thousands of insurgents fighting the American forces in Iraq and there are likely many, many more thousands who are sympathetic to the insurgency.

Nobody should be surprised by the Bush administration's doublespeak on this issue, because the White House has actually gotten quite good at lying directly to the American people while somehow managing to keep a straight face.

President Bush delivers only good news, like declaring the mission accomplished aboard a giant Navy ship. He paints an optimistic picture of Iraq, saying that the violence is decreasing in scope and intensity. Then the White House dispatches someone like Colin Powell to deliver the truth that Iraq is actually still mired in chaos and violence and that anti-Americanism is on the rise. It amounts to nothing less than an institutionalized method of a White House that speaks out of both sides of its mouth, telling lies to the American people. Lies instead of truth, in spite of the deaths of more than 1,000 U.S. soldiers, at least 13,000 innocent Iraqi civilians, and let us not forget about the more than 7,000 gravely wounded U.S. troops who have lost arms and legs and an inner peace they may never recover. I wonder if these individuals would agree with President Bush's assessment of steady progress in Iraq.

Mr. Speaker, there has to be a better way of handling the quagmire in Iraq. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for sensible, multilateral, American response to terrorism. If we had been following the SMART security, we would not be in Iraq in the first place.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

(Mr. DICKS 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 Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK 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 Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

(Mr. DELAHUNT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER

Mr. STRICKLAND. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Massachusetts (Mr. DELAHUNT).

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

There was no objection.

WAR ON TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, in just a few short days, the American people will make a decision that will determine the future of our Nation for at least the next 4 years and maybe for the next four decades. We find ourselves in a situation where more and more Americans are losing their health insurance, more of our retirees are in fear that their retirement benefits will be reduced or eliminated, more of our young people are finding it increasingly difficult to afford a college education, more of our senior citizens are finding it impossible to buy the medicines they need, and, sadly, more and more of our American troops are losing their lives on a daily basis in Iraq and literally thousands of our troops have been and continue to be wounded in that war.

We find ourselves with the situation in Afghanistan where the Taliban is reconstituting its authority and power and we face the situation where long after our country was attacked by the terrorists, the mastermind of those attacks that took the lives of our citizens in New York and Pennsylvania and here at the Pentagon in Washington, the mastermind of that attack, of those attacks, Osama bin Laden, is still on the loose. We know not where he is. He is seldom mentioned. Yet the President claims that we are winning the war on terror when the major terrorist has not been apprehended and continues to be free to plan the next attack whenever or wherever that may occur.

The President spoke at the Republican Convention for 63 minutes, quite a long time, and yet he never once mentioned the name of Osama bin Laden. Osama bin Laden, the man who orchestrated the attacks upon our country. Osama bin Laden. Not Saddam Hussein but Osama bin Laden. It is almost as if the President has forgotten how to pronounce that name. I point this out for I think a very legitimate reason. As long as the person who was responsible for attacking our country is still on the loose, has not been apprehended, is it not reasonable to assume that the American people would conclude that we are still threatened by this man? That regardless of what we have been able to claim in Afghanistan, we have failed in the primary mission?

The President told us shortly after September 11 that Osama bin Laden could run but he could not hide. Those were the President's words. He can run but he cannot hide. The sad truth is that he ran and he has successfully hidden and this night he is somewhere planning the next attack. Symbolically, he is the hero to the terrorists. And as long as Osama bin Laden is on the loose, the terrorists can say they have not yet defeated us.

I get a little tired of hearing the rhetoric that is coming from the White House, that is coming from Secretary Rumsfeld and occasionally from Colin Powell, although he tends to be a little quieter about it. I get a little tired of hearing from Vice President DICK CHENEY that things are going well, that we are winning in Iraq. The fact is that much of Iraq is off limits to our soldiers. They are called no-go zones. Our soldiers cannot go there. Well, they can only go there if the Iraqi interim governmental leadership wants them to or says they should, and in those cases they may wander into those no-go zones. They tell us we are going to have elections in January. Yet with much of Iraq off limits, I wonder, and I think it is a legitimate question to ask, how can we have elections when we cannot even enter large cities in Iraq?

The President needs to come clean with the American people. He needs to tell us the truth. We are capable of dealing with the truth. We are not capable of dealing with misleading deceptions and what I consider manipulation and deceit on the part of this administration.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

(Mr. INSLEE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Madam Speaker, it is easy to understand why President Bush and the Republicans have had such a hard time selling the Medicare law to the American people. Their Medicare law has more than its fair share of dirty laundry, as we can see from this chart. Cost estimates hidden from Congress, the administration violated ethics laws, Members of Congress strong-armed to change their vote. We know this Medicare bill was passed in the middle of the night. The roll call was kept open an unprecedented 3 hours. One Member was literally bribed on the House floor, he claimed, the next day, or they attempted to bribe him on the House floor, a Republican leader attempting to bribe a Republican Member.

Seventy-eight different drug cards with no guarantee. Breaking the deal on drug reimportation which the gentleman from Illinois (Mr. EMANUEL) will talk about in a moment. And the crowning point was that Medicare Part B premiums increased a record, 39-year history of Medicare record of 17.4 percent.

This bill had big problems from the start, from its passage, as I just pointed out, using threats and bullying to suppress an internal estimate, the middle-of-the-night vote, the bribery on the House floor. The administration then turned around, spending tens of millions of dollars on infomercial-style ads making Medicare almost look like an item for sale on the Home Shopping Network. That bad process, the middle-of-the-night, the bribery, the campaign contributions, the sleazy kind of tactics to get this bill passed, the expenditure of tax dollar money to sell a bad product to the American people, that whole process, that bad process resulted logically in a bad product.

□ 2130

The drug benefit offers a part-time response to a full-time problem, requiring year-round premium payments for drug coverage that ends in August. And the Medicare law is confusing, handing seniors a stack of discount cards and saying if they cannot figure this out, here is an 800 number. The Medicare law does nothing to contain the skyrocketing cost of prescription drugs. Instead, instead, the Republicans and the President went out of their way to write the drug industry a blank check. No surprise there. This bill means $180 billion, with a ''b,'' in extra profits above and beyond what the drug companies' record profits already are, $180 billion in extra profits for this drug bill; and, again no surprise, to complete the circle, the drug companies have given President Bush and Republicans in Congress tens of millions of dollars for their campaign.

We will hear more about these and other serious flaws in the Medicare law from the gentleman from New Jersey (Mr. PALLONE) tonight, from the gentleman from Illinois (Mr. EMANUEL), and from the gentleman from Ohio (Mr. STRICKLAND).

I want to get started by talking for a moment about the Bush Medicare premium hike. We heard about it. It was in the papers. Despite the Bush administration's efforts to keep it as quiet as possible, they released the information about the biggest Medicare hike in history, a 17.4 percent premium hike.

They released it on the Friday before Labor Day, hoping people would not notice. But the biggest premium increase in Medicare history, they just cannot keep it quiet. So the news that Saturday was all about the Bush administration's plans, President Bush's plans to impose a 17.4 percent Medicare premium increase. The Republican spin machine is nothing if were not tenacious; so faced with bad news, they did what they always do, they blame the Democrats or they blame someone else. In this case they tried to convince us that Democrats are really the reason the premium hike happened. The fact is Republicans control the House, they have for 10 years, the Republicans control the Senate, the Republicans have had the White House. During the Clinton years, premiums stayed almost even for the last 4 years of the Clinton years, the second term of the Clinton administration, and now they have jumped up.

In fact, before the Bush Medicare bill became law, the nonpartisan Medicare trustees estimated the monthly premium increase for next year would be $2. After the Bush Medicare bill became law, the premium increase jumped to $11.60. That is per month. That is not much to a Member of Congress, but a senior citizen whose Social Security only went up 2, 2¼, 2½ percent, when faced with a 17 percent increase, well over $100, that is a serious amount of money. Five times larger than the premium increase estimated before the Bush Medicare law.

So where is that money? Where is that billions of dollars, the 17 percent increase, the billions of dollars that seniors have to pay out of their pockets? Whose pockets is that money going into? Where does that money go?

The fact is much of it is going into the pockets of Medicare insurance HMOs. The Medicare law creates a $23 billion slush fund that HMOs can use to lure seniors out of traditional Medicare into their private insurance plans. Seniors already spend 25 percent of their income on out-of-pocket health care costs. The Bush Medicare law hands them a giant increase in their Medicare premiums.

HMO profits already this year have jumped 50 percent over last year. Now we are giving them this $23 billion. And here is how it works: Last March the government, taxpayers, gave the first $229 million payment to insurance company HMOs. In April, taxpayers gave another $229 million payment to insurance company HMOs. In May and June, all the way through this year and all the way through next year, $229 million every month from taxpayers to insurance company HMOs. But do my colleagues know something? Seniors do not get the prescription drug benefit until 2006. So $229 million for 22 straight months go from seniors through this premium increase and taxpayers directly into the pockets of insurance company HMOs before they even get a drug benefit.

So it makes us wonder why. And the answer to the question why is insurance companies and drug companies wrote this Medicare bill, insurance companies and drug companies benefit from this Medicare bill, and the President and Republican leaders get major campaign contributions from the drug and insurance industry. It is all pretty simple. It is also corrupt. It is also outrageous. It is also morally reprehensible. And it is also something that we all need to think about when we make a decision this fall, come November 2.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL), who has been a leader particularly in the reimportation issue. One of the most important things this Congress has failed to do; that is, getting the price of prescription drugs down.

Mr. EMANUEL. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

As he knows, the whole debate about prescription drugs was fundamentally about the price and affordability of those medications. What we all heard in our districts and different areas, at shopping malls, senior centers, and from people at their pharmacies, was that seniors could not afford the medications they needed. And the idea of a prescription drug benefit, when Medicare was first created, prescription drugs as a cost of a senior's health care budget was about 10 percent. Today it is about 60 percent, and yet we did not cover it. And the whole concept here was to deal with the price and affordability of prescription drugs for our seniors. We had this historic opportunity.

Pharmaceutical companies over the next 10 years, the length of this bill, are going to walk away with $140 billion in additional profit just from this legislation. And what do they get? No reimportation, which they did not want. No bulk negotiations, turning Medicare into one giant Sam's Club, negotiating prices like Sam's Club does for consumers, and they got weak provisions as it relies on generic medications coming to market to compete with name-brand drugs. Everything that had to do with price and affordability, pharmaceutical companies got what they wanted, check, check, check, and they got $140 billion in additional profits.

HMOs got an additional $130 billion worth of profit, and they too got what they needed most, which are bigger payments. But yet a GAO study showed on a demonstration project that HMOs and PPOs show no financial advantage to the taxpayers, no medical competition that was supposed to be. In fact, the beneficiaries get few advantages. That is the GAO report on this new benefit. What do they walk away with? A hundred and thirty billion dollars in taxpayer-supported additional profits.

Last week in ''The Hill,'' our journal here in the Capitol, there was an article about a Republican lobbying firm that is paying $4,000, funded by pharmaceutical companies, per senior citizen. They can find who will speak positively about the pharmaceutical prescription drug benefit. A $4,000 bounty. We have a $10 million bounty on Osama bin Laden; so we are now going to add happy seniors to that group of people that Republicans cannot find.

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

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, what I think I heard the gentleman say sounds almost unbelievable.

Mr. EMANUEL. Mr. Speaker, does the gentleman want me to repeat it?

Mr. STRICKLAND. If he would, Mr. Speaker, but what I think I heard him say was that the pharmaceutical companies are offering a senior citizen $4,000 if they will be willing to say something positive about this benefit?

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

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. EMANUEL. Mr. Speaker, in ''The Hill'' article, our paper, a Republican lobbying firm who has Pharma as its client was offering a bounty of $4,000 per senior if that senior would come forward and say they are having a positive experience under the prescription drug benefit.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, they would prefer that this senior not announce that they are getting the $4,000 from the drug companies when they say that, I would understand.

Mr. EMANUEL. Right. But if the gentleman would continue to yield, Mr. Speaker, that was in the article. And my view is, I mean, it would be better if they gave a $4,000 prescription drug benefit. Maybe it would be much better if they just gave the benefit of $4,000. We would have accomplished what we set out to do.

We introduced in a bipartisan fashion a concept of reimportation, allowing people to get access to the same name-brand drugs that they have in Canada, that we have here, that they have in the United Kingdom, in Ireland, Scotland, Amsterdam, France, Germany. All those medications that we get on our shelves they get for 40 to 50 percent cheaper than we get here. On my Web site, I have a Costco in my district. It is a big discount retailer. There is a Costco in Toronto. I list the ten drugs in the Costco versus the Costco in Toronto. The same store retailer, the same discounter, the same low prices. People save $1,200 if they go to the Costco in Toronto verses the Costco in Chicago for the same ten drugs.

Reimportation brings competition to bear, and the pharmaceutical companies do not want price competition because they see the senior citizens, they see the taxpayers, as their piggybank to fund them. They use the American seniors and our taxpayers as their profit margin. People in Canada, their government is doing their job. They are

getting low prices. People in the United Kingdom and France and Germany, their government is representing their people. They are getting low prices. And we are getting the shaft and we have allowed it.

And the amazing thing is that this is not an accident. This is by creation by the government to create artificially high prices to benefit the pharmaceutical companies.

I have no problem with funding the research and development of new drugs. I have a problem when the taxpayer funds those drugs with taxpayer-paid dollars through the National Institutes of Health or the caps on research and development, a 50 percent write-off for R&D. And then I have a problem with turning around and saying to the same people who paid for that research that we are going to charge them twice as much as what the people in Canada and Europe get charged.

If we brought competition, the principles of the free market, to the pharmaceutical products, we would have the same prices as Canada and Europe. Bring some competition. But what do we do? We have got a closed market. We have got artificially high prices, and we have got senior citizens and taxpayers being shafted. That is what this Medicare bill did.

And let me say this: What is happening is not a coincidence. It was done by design. So do not walk up and say how did this happen? My colleagues do not think that the prescription drug companies and pharmaceutical companies pushing for a prescription drug bill did not know what they were getting when they got the $140 billion in additional profit and no restraints on pricing? My colleagues do not think the HMOs were spending the type of money they were spending on lobbyists and contributions to get $130 billion of extra profit and people getting worse care or not as good of care as guaranteed under Medicare? This was done by design. The results we have are the results of what they literally did when they drafted the legislation.

I would like to thank my colleague for allowing me to explain to people this bill. And the good news is our seniors know exactly what they got, which is why they are angry.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, what the gentleman from Ohio (Mr. EMANUEL) said about Costco, think about that. This is the same company, one in Toronto, one in Chicago, the exact same company, and it is not Costco that is marking up the prices in the United States. Obviously they buy their drugs from a U.S. wholesaler connected with the drug companies, and in Canada they buy them from a Canadian wholesaler which has negotiated cheaper prices. And Costco could not buy its drugs that it is selling at the Toronto store and ship them to its Chicago store because the Bush administration will not let them.

That is why this break in the deal on drug importation is so important that we are simply saying, as the gentleman from Illinois (Mr. EMANUEL), the gentleman from New Jersey (Mr. PALLONE), and the gentleman from Ohio (Mr. STRICKLAND) have said many times, that we have NAFTA, we have the North American Free Trade Agreement. We are allowed to buy and sell across country lines, but we are not allowed to go to Canada and buy those prescription drugs, bring them back to the United States, and sell them at a much lower price. The same drugs, the same packaging, the same manufacturers, the same dosage, everything.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) and also the gentleman from Illinois (Mr. EMANUEL) for their comments because they are clearly right on point in talking about why this Medicare premium is going to increase so much in the next year and that this is directly the result of President Bush's policy and Republicans in this House's policy with the Medicare bill, the so-called Medicare prescription drug bill that the Republicans passed last year.

Sometimes I do not know whether to laugh or to cry. To laugh because the hoax that is being played by the Republicans and the Bush administration is so ridiculous, or to cry because of the fact of what the consequences are to America's seniors. And we have to understand, and I know all of us do, that this is something that is really going to hurt seniors. They cannot afford a 17.4 percent increase. These are seniors living on fixed income. The Social Security COLA this year, I do not know what it is, 2 percent, 3 percent, something like that.

Mr. BROWN of Ohio. Reclaiming my time, we do not know yet, Mr. Speaker, but it will be less than 3 percent.

Mr. PALLONE. Yes, Mr. Speaker. This Medicare Part B premium is five times the 17.4 percent increase, at least, of what their Social Security COLA would go up to.

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

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Speaker, so if a senior is on a fixed income and the Social Security premium goes up less than 3 percent and yet the Medicare premium goes up 17.4 percent, what is that senior on a fixed income to do when they are already living on the edge, they are already having a struggle to buy food and get their medicines, pay their bills, heat their homes? What are they to do? What does this President say to an 80-year-old man or woman who is living at the edge in terms of their income? What does this President say? What do the leaders in this House have to say to those folks?

Mr. PALLONE. Mr. Speaker, if the gentleman will continue to yield, I have to be honest, one of my concerns is, I mean we know that 99 percent of seniors pay the Part B premium because it pays for the doctor bills, but I would not be surprised if we start seeing a significant portion of them that do not even sign up for Part B because they cannot afford the premium. I mean that is my fear.

And the other thing I wanted to follow up on, though, because I think it says so much about what is going on here and shows how the Bush administration and Republicans have caused this premium.

□ 2145

We have got to understand that the gentleman from Ohio (Mr. BROWN) said when President Bush spoke, he tried to give the impression that this was just some natural phenomena, or maybe even worse, it was caused by the Democrats.

This is directly the result of the Bush administration and the Republican Policy Committee, because when they passed that so-called Medicare prescription drug bill, what did they do? Essentially what they are doing is two things: one, giving more money to the insurance companies, particularly to the HMOs, and essentially trying to get Medicare privatized, to get seniors out of traditional Medicare, and this premium increase is a direct result of all that extra money that is going to pay for the HMOs or the other managed care agencies getting this increased money.

The other thing is it is the result of the fact that the Republicans are borrowing from the Social Security and the Medicare trust funds to pay for the deficit that has been the result, again, of their policies. They did all these tax cuts primarily for corporate interests and for wealthy Americans. They had to borrow from the trust funds, including the Medicare trust fund, to pay for those tax cuts, and created a deficit; and that is another significant reason why this premium is going up.

So when the gentleman from Illinois (Mr. EMANUEL) talked about the GAO study, which was in the New York Times, today the New York Times had a article on this GAO study, and it is just incredible, because what it found is that Medicare is spending $650 to $750 more per year for each beneficiary in these private plans, these managed care plans. Even though we are spending all this extra money, which is causing the part B premium to go up so much, we are finding that it is costing the government more.

I just want to read this. It was just amazing to me. The New York Times today, the front page: Federal investigators said Monday that the Bush administration had improperly allowed, once again breaking the law, some private health plans to limit Medicare patients' choice of providers, including doctors, nursing homes and home care agencies. Investigators from the GAO also found that the private plans had

increased out-of-pocket costs for the elderly and had not saved money for the government, contrary to predictions by Medicare officials.

They have been saying all along the reason we are giving this extra money to the HMOs and the managed care providers, in this case the preferred provider organizations, is because the beneficiaries are going to save money out of pocket. Now this finds out that that is not true.

So what do we have? We are giving the managed care companies more money. We are causing the part B premium to go up. As a result, the seniors are paying more out of money. And the Bush administration is doing all this illegally because they are limiting seniors their choice of doctors, nursing homes, and home care agencies.

The only person that benefits is the insurance companies and the HMOs. I guess, as the gentleman from Ohio (Mr. BROWN) said, the Republicans benefit, because they get campaign contributions and other things from the insurance companies. But there is nobody that benefits here.

Even with all this going on, McClellan, the administrator of Medicare, insisted that private plans were an attractive option that would save money and improve coverage for beneficiaries. That was his response to the GAO report. Incredible. I just do not know where it ends. It is sickening.

Mr. BROWN of Ohio. Madam Speaker, reclaiming my time, I want to reiterate that this did not have to happen. We have a very good Medicare system. One of the great things about our system is while we do not always rank at the top around the world in our health care system because a lot of people do not have insurance and all that, if you get to 65 in this country, you in fact do have one of the longest life expectancies in the world because you have very good health care, you have Medicare.

You had a shortcoming. You did not have a prescription drug benefit. You still really do not because it is now a privatized insurance plan. But this did not have to happen. We did not have to take Medicare, one of the great programs this country has ever had, and do what the Republicans did.

I want to outline again, first of all, how they did it. If you do something, if you build a house in a way that is not structurally sound, if you do not use a good quality wood, if you cut corners, you are not going to have a very good house at the end. If you do not have good input into any manufacturing process, you are not going to have a very good manufactured product at the end.

Just again look at how the Republicans did it. They first told the American people and the Congress the bill would cost $400 billion over 10 years. It turns out there was an actuary at the Center for Medicare and Medicaid Services who said no, it will cost $534 billion; but he was not allowed to speak out. He was threatened by Tom Skully, the administrator, and I assume by the President also, who had to know this too, that it really costs $534 billion.

Mr. Skully has since moved on to work as a lobbyist for the drug and insurance industry, no surprise there, while the President has taken tens of millions of dollars apparently to thank him for the Medicare bill. We will get to that in a moment. But the cost estimates were hidden from the Congress. They simply did not tell us the truth about how much it was going to cost. Then the administrator violated ethics laws by the way they treated that employee and other ways.

Then the way it passed this Congress, we remember that night, the debate started at midnight, the vote started at 3 o'clock in the morning, the roll call was kept open for 3 hours. They literally tried to bribe one Member.

Mr. PALLONE. Madam Speaker, if the gentleman would yield further, if I could interrupt, the one thing I thought was so significant and maybe was not played up enough, there was a majority of the House of Representatives that voted ''no'' on that bill, 218, a clear majority. There was absolutely no reason to leave that board open, because a majority had voted ''no.'' So they basically spent, as the gentleman said, 2 or 3 hours persuading the people that voted ''no'' to switch their vote.

Mr. BROWN of Ohio. Madam Speaker, reclaiming my time, ''persuading'' is a very nice word. They did well beyond persuading. They arm-twisted, they cut deals, they tried to cut deals, they made offers, they tried the carrot, they tried the stick, they tried to bribe a Republican Member from Michigan, who talked about it the next day.

So this whole process, from the conception of the bill written by the drug and insurance industry to the cost estimates hidden and then lied about, the ethics violations, then the middle-of-the-night vote, then the bribing of a Member of Congress, the attempted bribing of a Member of Congress, and then the bill passing in the middle of the night, it is no surprise that this bill led to a product where seniors got a 17.4 percent premium increase. Again, the largest increase in Medicare history.

In the 1990s, in the second half, the premiums stayed almost the same. It was between about $46 and $50, within a dollar or two, every year for 4 or 5 years. President Bush came into office. Now it is up to $78 and some cents. It has gone up double digits more than once, and this time it went up 17 percent. Why? Because of all these things that happened.

This was not an accident that it went up 17.4 percent. It went up that much because they lied about the cost and they covered it up, the President and the administration and the Office of Medicare, CMS. Then they violated election laws. Then they strong-armed Members. Then they tried to bribe somebody. Then the bill contained a huge payout to the insurance industry, $290 million every month for 22 months before the bill, the drug benefit, was even into effect in 2006. So the increase to seniors was 17.4 percent.

Of course, the Republicans had to collect their money from the drug and insurance industries for their campaign this year. Republicans may have a good year this year in the election because they have so much money from the drug companies and so much money from the insurance companies. But it is morally reprehensible and outrageous how they did it, and even more outrageous, what ultimately happened to this bill.

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield further, I was just standing here thinking if you are a working person, if you are a senior citizen, if you are a veteran in this country, you had better look out, because this administration is out to get you. They are cutting veterans' health care funding. They certainly are not doing anything for the working people, who are seeing the tax burden of this Nation shifted more and more from the very wealthy on to the backs of the working folks. And then when it comes to the older people in this country, when it comes to our senior citizens, they are really getting the shaft.

The fact is that since George Bush became President, Medicare part B premiums have increased 56 percent. In less than 4 years they have increased 56 percent. But back home in Ohio, in Southeastern Ohio, we have an old saying about the chickens coming home to roost. I think the chickens are coming home to roost for the Republicans, because the senior citizens are starting to understand what is happening to them.

A story in the Columbus Dispatch, September 12, it says: ''Medicare expense becoming a big issue in the election fight.'' If I can just share the opening paragraph, it says: ''Medicare has emerged as a volatile issue in this year's elections as Democrats vow to roll back a sharp increase in premiums announced this month.''

Those premiums are increasing, as has been said here, 17.4 percent. That means that beginning in January, and that is after the election, but beginning in January a senior citizen will be required to pay for part B, their Medicare part B premium, $78.20. That amounts to $938.40 a year.

I repeat to my friend, the gentleman from New Jersey (Mr. PALLONE), the question I asked him a little earlier: If you are a senior citizen and you have health problems that require medication to keep you healthy or to keep you alive, in many cases, and you are on a fixed income, as many of our seniors are, and this President decides to increase your premium 17.4 percent, and your Social Security cost of living increase is less than 3 percent, what can you do? Where can you go to get what you need to buy your medicine, to pay for your food, to heat your home, to pay your rent?

That question is facing hundreds of thousands of American senior citizens tonight, and this President has an obligation to speak to that question, because he is the one who is responsible for putting this additional burden on the backs of our senior citizens.

Mr. PALLONE. Madam Speaker, if the gentleman will yield further, I just want to say two things in response. One is I think we have to keep repeating that this is the policy of the Bush administration and the Republicans in Congress. They have forced this 17.4 percent increase, because of their giving the money back to the insurance companies, the extra money to the HMOs and managed care, and because they are borrowing from the trust fund.

But I want to say I have had a couple of seniors contact me over the last few weeks, because they point out that the costs are even higher. One of the things not mentioned here, and I forgot exactly how much it was, but the Medicare bill actually has an increase in the deductible too. Does it go to $150 instead of $100? I do not know exactly the amount.

But this is the first time in the whole history of the part B program that the deductible is going to increase. So if you add that, and, remember, everybody is going to pay that, because when you go on January 1 and buy your first prescription or your first series of prescriptions, instead of $100, I do not know what it is going up to, it is going up beyond $100. I do not know if it is $150 or whatever at some point. So that is going to be an extra amount of money out of pocket.

Then if you look at what the GAO study says today in terms of the money for these HMOs, what they did is they waived the out-of-pocket limits. So in other words, what this GAO study is saying today, it is costing the senior more if they have joined these PPOs, a form of managed care, because they are going to pay more out of pocket. Think about it: premiums going up, deductibles going up, out-of-pocket expenses going up, because they have waived the requirements.

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield further, I think it is appropriate for us to ask how would this country be without Medicare. There are some people in this administration who never believed in Medicare from the beginning. They opposed it from the very beginning. They think it is something like socialized medicine, and they think that the private sector is not being able to get its fair share.

So, quite frankly, what we face with this administration, and I believe with the President, are individuals who simply do not believe in Medicare as such.

Otherwise when they talked about a prescription drug benefit, they simply would have made this benefit a part of traditional Medicare. They would simply have added A, B, C, and part D and said that is the prescription drug benefit to Medicare. We would have had a modest premium, and it would have been a part of traditional Medicare. But no, no, no, they want to go to the private sector. As a result of going to the private sector, as the gentleman has said, it is costing more, seniors are more limited in their choices, their premiums are going up, their deductibles are going it up, and they will continue to go up.

□ 2200

This year, it is 17.4 percent. Next year, when there is no election facing the administration, if they happen to retain power, it could be 25 percent. No one knows what is going to happen, because this administration, I believe, fundamentally does not believe in traditional Medicare.

So what do you do when you do not believe in a program? Well, you try to change it fundamentally, and that is what they are trying to do. This is the first step in the privatization of medicare, to relieve the government of this responsibility. And I ask, what would America be like tonight without Medicare? If George Bush and the leadership of this House and the Senate of this country have their way, we may find out what America will be like without Medicare.

Mr. PALLONE. Mr. Speaker, I will just read this one section from this report, and then I will yield back to the gentleman from Ohio (Mr. BROWN). Again, this is the GAO, the Government Accounting Office, nonpartisan; this is not Democrat or Republicans saying this. This is what the report said: ''To draw PPOs,'' which is a form of managed care ''into Medicare,'' the report said, ''the Bush administration offered to pay them more, waive stringent standards for the quality of care, and remove limits on the costs that beneficiaries might be required to pay. As a result,'' the GAO says, ''these plans were subject to no statutory or regulatory limits on cost-sharing for beneficiaries.''

Quality of care, cost, standards, they do not care. They are just giving money to their friends, the insurance companies.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, the gentleman from New Jersey (Mr. PALLONE) mentioned how premiums are up dramatically, obviously, the 17.4 percent. And before my friends on the other side of the aisle say anything, because I know what they are going to say, because they always say that to this is, well, one of the reasons premiums are up is because they are getting these great new preventive benefits. Well, the fact is preventive benefits cost, and this is all public information, they will add 20 cents to the cost of the premium increase. The premium increase is $11.40. The increase in better benefits, the preventive benefit is 20 cents, so they are getting almost nothing for the $11.40.

So we are seeing the premium increase 17.4 percent; we are seeing the deductible increase, as the gentleman from New Jersey (Mr. PALLONE) says; and once the drug benefit comes into effect, we are seeing accelerated, continuing, quickening, sky-rocketing drug prices.

And the reason for that, again, this stuff does not happen by accident. The reason for that is as a payoff to their drug company contributors, because there is no other explanation that I have heard from anybody, including Republicans privately, is they have a provision in the bill that says that the government may not negotiate the price of drugs on behalf of Medicare beneficiaries with the drug companies.

So in other words, think how easy it would be if the country would simply say, the government would say, we have 41 million Medicare beneficiaries. We are going to use them as one buying pool, one purchasing pool, to bring the cost of drugs down. That is what every other country in the world does. That is why drug prices are one-half, one-third, one-tenth in Germany, Japan, Israel, England, or Canada as they are here, because the government intervenes. It is not price controls; they just simply negotiate the price on behalf of seniors. That is what the Veterans Administration does. They bulk buy. They use the purchasing power of many to get a good price from the drug companies.

For the Republicans to write into this Medicare bill, with all the corrupt and outrageous and morally reprehensible and questionable tactics and ethics violations that went into this bill, for them to write a provision into the bill saying, we cannot negotiate for lower drug prices, that absolutely guarantees the prices will go up. So premiums go up 17 percent this year, maybe, as the gentleman from Ohio (Mr. STRICKLAND) said, another double-digit increase next year, even bigger, without the threat of an election over them, if President Bush wins the election or if Republicans keep control of Congress, premiums go up, deductibles go up, and the cost of prescription drugs keep going way through the roof.

It is by design. It is clearly what they want. They want to privatize Medicare, as the gentleman from Ohio (Mr. STRICKLAND) said; and they move towards a very different system. Back 38 years ago, almost no Republicans supported Medicare, and every time they have had a chance, they have gone after it. They have tried to privatize, take money out of it, tried to underpay providers so that they can rob the system. They have tried to pay off the drug industry and the insurance industry to privatize the system; and now that they control the House, the Senate, and the President, they are able to do all of these things, costing seniors more and seniors getting less; but the drug and insurance companies are doing very well, thank you.

Mr. STRICKLAND. Mr. Speaker, listening to this discussion and listening to the things the gentleman said about this bill and how it came into being, I

would say that for a senior citizen to continue to vote for those in power would be not unlike a chicken voting for Colonel Sanders. Now, we all know down in Kentucky and Ohio and around there that Colonel Sanders sells Kentucky Fried Chicken. It is pretty good stuff. But quite frankly, Colonel Sanders is no friend of the chicken, and I believe that this administration is no friend to America's senior citizens.

When we think about what is being discussed here, it is outrageous. It is absolutely outrageous. What we are talking about is not theoretical. We are talking about real people, older Americans. We are talking about tax dollars that are being given to pharmaceutical companies and insurance companies. We are talking about decisions being made that are almost irrational, if we consider them in a serious manner.

This administration pushed through a law that says, we cannot negotiate discounts. I mean, Sam's Club negotiates discounts. As the gentleman said, the gentleman from Ohio, the Veterans Administration negotiates discounts for pharmaceutical medications. Yet, this President and the leadership in this House said oh, no, no, no. Medicare cannot negotiate discounts for our senior citizens. Why? Because the pharmaceutical companies wanted that provision in the law. It is outrageous.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time just for a moment, in this House, a group of us wanted to try to amend the bill to take that out so that even though we did not like the bill overall, at least we could have brought drug prices down by working for that discount by using the power of 41 million people purchasing, a Medicare purchasing pool. We wanted to offer that amendment, and because of the corrupt way this bill was brought to the House floor, from the cost estimates to the ethics law to the middle-of-the-night vote, to the bribery, attempts of bribery on the House floor, we were not even allowed to offer that amendment so we could debate it; and let my friends on the other side try to defend the drug companies, but they did not want to do that in public. Everything they wanted to do would be in the middle of the night or not have to do it at all, so they did not even allow us to offer that amendment to even discuss it.

Mr. STRICKLAND. So it is fair to say that President Bush believes that America's senior citizens should pay more for their drugs than Canadian senior citizens. He believes that American senior citizens should pay more for their drugs than English senior citizens or German senior citizens or Belgium senior citizens or Swedish or French senior citizens. That is what we have. America's senior citizens are paying more, senior citizens in other countries are paying less; and this President says that is the way it ought to be. He is standing in the way, with the leadership in this House, of those of us who feel that this is wrong, having the ability to change it.

Mr. BROWN of Ohio. Mr. Speaker, before yielding for a moment to the gentleman from New Jersey (Mr. PALLONE), one drug in particular, a drug cold Tamoxifen, a breast cancer drug, it is a very effective drug to help women combat breast cancer, costs 10 times in the United States what it costs in France. This is a drug that was developed in large part by U.S. taxpayers, and it is made here. Yet the French pay one-tenth as much for Tamoxifen as do Americans; French women do pay one-tenth as much as American women do. Those are not coincidences; they do not happen by accident. They happen because of the corruption and the violation of ethics laws and the bribery and all that Republicans have engaged in on this medicare prescription drug bill.

If you want to teach a class about how government should not run, if you want to teach a class about how government can be rife with corruption, all you have to do is talk about the Medicare bill. If you explain to students or explain to anyone how this Congress, how this Congress passed this Medicare bill, there is no better example in my 30 years in public office, almost 30 years in public office, there is no better example I have ever seen from either party even at its worst, and both parties do things we sometimes should not do, but we have never seen anything close to the corruption that just permeates this Medicare bill, from the beginning of its process to the 17.4 percent increase, and who knows what in the future.

Mr. PALLONE. Mr. Speaker, I just wanted to add a couple of things about price, because I think it was the gentleman from Illinois (Mr. EMANUEL) who said earlier that what this is all about is price and cost and how much people are paying out of pocket. I mean, the reason that my colleague, the gentleman from Ohio (Mr. BROWN), started this Special Order tonight is because of this 17.4 percent premium increase in Medicare part B, but we have already talked about all of the other additional costs.

One of the things that I think has not been highlighted, and I am not talking about with us, but just in general, is that when this so-called prescription drug benefit, and I do not even like to use the term, kicks in in a couple of years, all of the information that Republicans are giving out relative to the cost, none of it is true. They act as if there is going to be a set premium, that there is going to be a set deductible, that there is going to be some list or formula that is going to include drugs, certain drugs. None of these things are true. There is absolutely nothing in the bill that sets the premium. The premium for the drugs could be $100 a month. Who knows? The deductible, we are thinking because we think of part B that the deductible is $100, the deductible could be $200, $300. There is absolutely nothing in this bill that dictates in any way what the price is going to be for the premiums, for the deductibles, for anything, or that any particular drugs are going to be included. Everything else is true too.

In the interim, we have these so-called drug cards, right? Now, you and I know the seniors are supposed to go on the Internet and figure out whether or not it is worth it to buy one of these drug cards because you look to see whether or not certain drugs that you might want to take are included on these so-called discount drug cards. But we know that that price can change next week. So they could increase the price, and you might find that you sign up and pay for the drug card and then the cost is two or three times. There is nothing here. The idea of not negotiating the price extends not only to the price of the drugs, but to every aspect of this: premium, deductible, you name it.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, that is why the comment of the gentleman from Ohio (Mr. STRICKLAND) earlier was so important. Without the prospect of an election, if President Bush wins this election, if Republicans win the House, it is Katie, bar the door. Premiums, deductibles, copays, who knows what this is going to look like. More insurance company subsidies, more subsidies for the drug companies, two industries that have done so very, very, very well in this country. The drug industry is the most profitable industry in America for 20 years running, with the lowest tax rate. Insurance companies and HMOs had a 50 percent increase in their profits this year over last year, and that is before they got this, before all of this corruption led to their $290 million-a-month payout from taxpayers to HMOs.

Mr. Speaker, the gentleman from Ohio (Mr. STRICKLAND) is right. When there is not an election, if President Bush was willing to increase premiums 17.4 percent, a record increase 2 months before an election, granted, he did it on Labor Day weekend when he hoped nobody would notice, but if he is willing to do that 2 months before an election, a very close election, you can wonder what he is going to do when those shackles are off.

Mr. STRICKLAND. Mr. Speaker, we have talked about the problems with this bill. What is the solution?

Well, I think these problems could be solved if the President would pick up the phone and call the gentleman from Illinois (Speaker HASTERT) and say, Speaker HASTERT, I want a bill that allows the importation of cheaper drugs from Canada into this country. And if the President said to the gentleman from Illinois (Speaker HASTERT), Mr. Speaker, I want a bill that allows our government to negotiate cheaper prices for our senior citizens with the pharmaceutical industry, the President could do that, and I believe the Speaker would accommodate him. A bill

could be brought to this floor; and with the President's support, it would pass overwhelmingly.

So what is the problem? The problem is the President is on the wrong side of these two issues. He is on the wrong side of other issues as well regarding this bill, but especially on the issue of importing cheaper drugs from Canada, something that most Americans want. Americans cannot understand, they just simply cannot understand why a drug can be sold in Canada at a profit, at a profit. The drug companies are not losing money when they sell these drugs in Canada. So the American people ask, how can a drug company sell a drug in Canada and make a profit and then sell that same drug in this country for two or three or four times as much as they are charging in Canada? What is right about that, when we have older people on fixed incomes who are desperate?

□ 2215

I do not know if the President, as he is out and about the country campaigning, encounters the same kind of people that I do, but every time I go back to my southeastern and southern Ohio district, I encounter older people who are desperate. They simply do not know how they are going to make it.

It would be so simple. We could accomplish this in a few hours' time if the President would simply take the leadership and do it, but thus far, he is leading in the opposite direction. I think the American people need to know that, that if they are concerned about high drug costs and they are concerned about Canada and France and all these other countries getting the drugs more cheaply, they need to know that the President is one of the reasons for that, because he refuses to speak up and speak out and to provide the leadership.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from New Jersey (Mr. PALLONE) for joining me and the gentleman from Illinois (Mr. EMANUEL) earlier tonight.

Again, as the gentleman from Ohio (Mr. STRICKLAND) pointed out, we know what has not worked. We know this bill has been an absolute payoff to the drug and insurance industries. We know how this bill became law. We also know what we could do to fix it, and we would offer again tonight, because we should not come down to the floor and only criticize, we really should offer constructive solutions.

The gentleman from Ohio (Mr. STRICKLAND) is exactly right. We should have reimportation. We should run the Medicare prescription drug bill through traditional Medicare, not farm it out to insurance companies, and then have to subsidize those insurance companies to ''incentivize'' them to offer the prescription drug benefit.

With reimportation, we also ought to be able to use the buying power of the Federal Government on behalf of 41 million Medicare beneficiaries to get the price down so that people could simply open up their purse or their billfold and pull out their Medicare card and go to the local drug mart in Elyria, Ohio and get a price that is 50 or 60 or 70 percent less than we have today.

We can do this if we have the political will. We could do this if the Republican leadership and the President would wean themselves off of drug company and insurance company contributions. That is what we need to continue to push in our country so that seniors are finally treated equitably by their Federal Government.

I thank my friends from New Jersey and Ohio.

9/11 COMMISSION RECOMMENDATIONS

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Madam Speaker, tomorrow starts an historic process as we move through the 9/11 Commission recommendations and other actions by this Congress in committee to try to address many of the terrorist concerns and how we are going to handle those terrorist concerns with new legislation.

We have already taken many actions in this Congress, we have already taken many actions in the executive branch, but tomorrow we start a committee process where we are going to implement many other historic pieces of legislation.

Madam Speaker, I would now yield to my colleague the gentleman from Illinois (Mr. SHIMKUS) who is going to address a number of the aspects that we will be starting in our deliberations this week.

Mr. SHIMKUS. Madam Speaker, I would like to thank my colleague for yielding to me.

I am going to focus on two issues dealing with the telecommunications arena, and these are very, very important, as we have found since September 11, especially in the arena of communicating between all the different levels of the first responders. This is something the Committee on Energy and Commerce has been focused on for the last few years, especially, as I said, since the terrorist attacks.

We have begun debating legislation that will implement many of the recommendations from the 9/11 Commission report. A number of these recommendations focus on public safety communications. The 9/11 Commission noted in its report that the inability of first responders to talk to each other at the World Trade Center, at the attack on the Pentagon, and at the crash site in Pennsylvania were a critical element in impeding rescue work.

A recent report by the GAO said that the Federal Government still does not know how extensive the lack of effective emergency communication is, mostly because there is no comprehensive policy within the Federal Government that addresses spectrum assignments and plans for interoperable communications technology for public safety.

Homeland Security Secretary Tom Ridge just announced that his department was establishing an office to set national standards for emergency communications so first responders can talk to each other. This office will receive the wide range of public safety interoperability programs and efforts currently spread across Homeland Security. These programs address critical interoperability issues relating to public safety and emergency response, including communications, equipment, training and other areas as needs are identified.

The term ''interoperable communications'' means the ability of emergency response providers and the relevant Federal, State and local government agencies to communicate with each other. Oftentimes, this is a very difficult task. More and more often, when a public safety officer responds to a call, he or she will arrive at the call site and find out their radio does not work because a private wireless carrier operating in the same spectrum band has a tower close to the call site. The interference is generally a result of the carrier's signal either overpowering or mutating public safety's signal.

The 9/11 report recommends that Congress expedite the increased assignment of radio spectrum for public safety purposes. I believe, as do other Members, that full public safety communications interoperability within the decade should be a national goal. H.R. 10 requires the Secretary of Homeland Security, working with the Secretary of Commerce and the Chairman of the FCC, to establish a program to enhance public safety interoperable communications at all levels of government and to establish a comprehensive national approach to achieve public safety interoperable communications.

There are some 60,000 first responder organizations in the United States, and each one purchases its own equipment. These organizations control more than 40,000 spectrum licenses. Neighboring communities that need to communicate in an emergency often start out with vastly different communication systems and different capacities to fund new equipment, but this is a difficult problem to correct. Many localities are not willing to give up their system so they can have the same one as a neighboring community. They feel the systems they have work best for them in an emergency and feel the cost of switching to a new system is too high. Some first responders worry that a fully integrated system could compromise command-and-control in an emergency by fostering a confusing set of instructions.

States are looking for low-cost solutions that will enable better communication, while avoiding the danger in which the chain of command breaks down in emergencies. We do not want everyone talking to everyone else all the time.

One key is to set a date for the availability of new spectrum. It gives States and cities an incentive to move more quickly on the investments in new equipment needed for interoperability, especially in urban areas where the volume of users can quickly overload the system in an emergency, as it did in New York and the Pentagon on September 11.

There is a lot of uncertainty out there about how Congress and the FCC should acquire this spectrum. Congress passed legislation that included providing some of the needed frequencies. Congress mandated that channels used to broadcast analog television were to be clear, and spectrum at 700 megahertz was to be reallocated for wireless communications, including public safety.

In the Balanced Budget Act of 1997, Congress established 85 percent as the threshold for the percentage of households, by market, that must be able to receive digital signals in order for the FCC to end the licenses for analog over-the-air broadcast and then use those analog licenses for public safety. In this scenario, the 15 percent that lacked digital equipment would, presumably some 16 million homes, quickly lose access to all television programs.

A proposal by the FCC media bureau chief, Kenneth Ferree, known as the Ferree Plan, would include cable and satellite set-top boxes that can accept digital signals and evaluate whether at least 85 percent of a TV market has either digital TV or converters. Such an action would make it possible for the FCC to begin reclaiming spectrum from broadcasters as early as January 2009, but this has been met with some criticism by broadcasters across the country. To date, over 1,400 of the 1,600 plus over-the-air broadcast stations are broadcasting a digital signal.

Another issue I wish to address is the communication problems we are having when people need to call 911 in an emergency, especially on their cell phones. The critical numbers 9–1–1 is our first link to getting lifesaving help or thwarting a terrorist attack. Only a small percentage of the Nation's PSAPs are capable of processing wireless 9/11 calls. Those are public service answering points; most of us know them as the 911 call centers. They are really the government-run answering locations for public safety. An estimated 130 million wireless phones are in use, generating an average of 150,000 calls to 911 each day. Our Nation's communications technology has changed, but our emergency response infrastructure has not been updated. Too many remain needlessly at risk.

The most significant remaining hurdle to ubiquitous E–911 services is PSAP readiness. However, most of the remaining PSAPs lack the funding necessary to upgrade their systems, and many States, like my home State of Illinois, have aggravated the situation by using the subscriber fees collected on phone bills for E–911 services to help cover budget shortfalls.

To address this growing problem, I joined with my colleague in the House, the gentlewoman from California (Ms. ESHOO), she is a Democrat from California, and two U.S. senators, Senator CONRAD BURNS from Montana and Senator CLINTON from New York, to form the Congressional E–911 Caucus. Together, we have pushed legislation that will enhance coordination of E–911 implementation in each State, discouraging the raiding of E–911 funds, and give local PSAPs additional funding to help them finally achieve enhanced 9/11 capability.

I joined the gentlewoman from California (Ms. ESHOO) in introducing H.R. 2898, the E–911 Implementation Act of 2003. The bill passed the House last November and is currently waiting action in the Senate. I believe the 9/11 Commission report legislation would be the perfect vehicle to attach this legislation. The legislation will do four major things to advance E–911 deployment.

First, it authorizes $100 million for 5 years to provide PSAPs with matching grants to help them with much-needed upgrades.

Two, it penalizes States for diverting their E–911 funds. Under the legislation, PSAPs will not be eligible for matching grants until their States certify that they have stopped using their E–911 moneys for other purposes.

To make a long story short, what States are doing are taxing our phone bills, and that money is supposed to be going to implement 911 call services and now enhanced 9/11. States are raiding that fund to pay for budget shortfalls. If the States do not clean up their act, they are not going to be eligible for any grants to help them meet the E–911 requirements.

A third thing it does is creates an E–911 office at the National Telecommunication Information Administration that will serve as a clearinghouse for best practices in the deployment of E–911 and administer the grant program.

Number 4, it also directs the FCC to review its E–911 accuracy requirements for rural areas to determine if they adequately address the complexities associated with providing E–911 services.

E–911 stands for enhanced, and what we are trying to do is make sure that when you use your cell phone and you call 911, people know where you are at, that you can identify yourself or they can be identified on a map. There are countless stories of people not doing that. How it translates into the 9/11 Commission report is that what we have also found is the ability to forward calls from cell phones so that if you had a major terrorist attack and if it was a weaponized anthrax or if it was a radiological, a dirty bomb, and we knew the disbursal area and we knew the wind direction, you could plot that, and then, in essence, use cell phones and call people who are, in essence, downwind and say, go this direction or go that direction and get out of the path of the cloud which is coming your way. That is how this is all tied to the 9/11 Commission report.

□ 2230

And accuracy is very, very important. Accuracy in urban areas is a challenge with high rises. Accuracy in rural areas is a challenge because you have long distances with isolated sectors of the population. So in a rural area you may get away with being accurate up to 100 feet, but in an urban area you may need a more specific and precise location.

What I am highlighting here tonight is a need for Congress and the SEC to act on public safety communication problems. H.R. 10 starts that process moving. There are other fixes like E–911 legislation that could help first responders respond quicker to emergencies and possible terrorist attacks.

These solutions are not easy. Congress and industry are going to have to make difficult decisions, but our goal should be to improve public safety communication systems and ensure that first responders are equipped with the necessary tools to respond to terrorist attacks and other emergency situations.

This is an important time in our country as we are moving forward to address numerous concerns. I really personally applaud the 9/11 Commission report. I think they have done a good job outlining many of the needs that we have to address to make sure that, as the commission so precisely put it, we are as a Nation safer today than we were on September 11; but we are still not safe. So we have to make needed improvements.

I have just talked about the communication aspects and dealing with some of the vague issues of spectrum and then how first line responders can free up spectrum for them to be able to communicate, and also how in using telecommunications we can help the individual citizens as more of our country moves to cell phone communications.

With that, I wish to thank my colleague, the gentleman from Indiana, for yielding to me; and I look forward to following his discussion on this issue.

Mr. SOUDER. Madam Speaker, reclaiming my time, I thank the gentleman from Illinois (Mr. SHIMKUS). There are so many aspects to the 9/11 Commission report and all the many day-to-day activities in fighting terrorism that it is hard to even begin to fathom the number of issues that we have to deal with as we move through the committee process.

Before I continue, I want to make sure that I point out to the gentlewoman from Michigan that I meant no

offense by my Notre Dame tie, just because Notre Dame is the champion of Michigan this year, both Michigan and Michigan State. I actually wore my Notre Dame shirt after they lost to Brigham Young at a State park in Michigan when I thought we were in a dismal year. I am a Notre Dame hot dog regardless of the time.

I hope no offense was taken by this wonderful Fighting Irish tie.

Madam Speaker, I would like to talk about another aspect of the 9/11 Commission, but first I would like to say a little bit about how we got here.

I know there are some Members in this body over the next few days, and they have been saying it in the news media, that think that just because there was a commission that somehow we have now checked our voting cards at the door and we are supposed to adopt this report lock, stock and barrel.

I was one who actually opposed this commission at the start, because I was afraid it was going to be overly political. In fact, there were times in the commission hearings that I felt that. For example, in Dick Clarke's self-serving testimony, it became very critical and was more focused on attacking the President than trying to move forward. I felt that not addressing the values of the PATRIOT Act was something that was kind of a gross omission of something we have actually done that has worked extremely well in this country in helping thwart future terrorist attacks.

Overall, however, it is not only an excellent document, but one of the best written government reports you will ever read. It is actually interesting; it is compelling as it goes through the testimony. The fact remains, however, that it is the opinion of a few individuals.

Now, a number of those individuals served in Congress, not many but at least three; and all of them were from the other party. The Republicans appointed to the commission were largely executive branch people at the State or the Federal level. Each of them had their own biases as they came in and had their own committee backgrounds as they came.

So while they have many excellent recommendations, we have to now work through a committee process by elected representatives, people in the House and Senate, who have many other opinions in addition to this commission. But the one thing this commission absolutely accomplished was it forced us to deal with this yet this fall. And it kept the pressure up such that tomorrow we are actually starting markups in multiple committees to try to move through as many things as we can without moving so hastily that we make major mistakes.

One problem with just rushing to judgment in an area as comprehensive as telecommunications and border security and individual liberties and privacy and travel visas, and all sorts of, just an incredible number of issues potentially here, relations with individual countries around the world, how we reorganize defense intelligence, narcotics intelligence, border intelligence, domestic and international intelligence, how you put different bureaucracies together when we are still struggling in the Department of Homeland Security, it is unclear how we absolutely merge Defense intelligence, the CIA, and the FBI. Their cultures are even more pronouncedly different than the cultures that were merged inside DHS, which is taking quite a bit of time. Nevertheless, we need to continue to move ahead.

Let me reiterate one other thing. It is not as though Congress has not been doing anything, not only after 9/11 but before 9/11. On the Committee on Government Reform and Oversight, when I was vice chairman of the subcommittee that now Speaker HASTERT chaired, we went over to Saudi Arabia after Khobar Towers. We heard from the counterintelligence people in many classified as well as public hearings about the increasing attacks on our military and our civilians around the world. Although they had not attacked us, although they had attempted to attack us at the World Trade Center, they had not successfully had a disaster like happened on 9/11. We were already moving to improve and to consolidate, but there was not as much consensus on how to do it.

Then, after 9/11, we went and wiped out terrorist bases in Afghanistan and deprived them of one of the major funding sources and routes to terrorism for al Qaeda through the Taliban. We moved into Iraq, which was not only attempting, if not absolutely having developed, weapons of mass destruction with which to attack us. They not only provided some tangential assistance to al Qaeda and other terrorist networks in ''the enemy of my enemy is my friend'' theory, but more directly were preparing to be an even bigger threat than al Qaeda itself.

Because we went into Iraq, Mohamar Qadafi decided he did not want to be in a spider hole, and all of a sudden he is fingering Pakistan, that they are providing him with nuclear parts. Then Pakistan moves over and provides some help to us.

As we now look at the potential terrorist nations of Iran and Korea, one of the questions we had when we looked at Iran was, where would you even base Americans. Until we moved into Iraq and Afghanistan and had a change in attitude at least of Pakistan, it was not clear how we would be able to deal with Iran.

So we have to take steps and look at this in a historical perspective of it was not like 9/11 occurred and nothing happened until there was a 9/11 Commission, they do a report, and suddenly there is panic. No, we have been dealing with this steadily and consistently.

My subcommittee, which predominantly deals with narcotics but also deals with immigration and all sorts of criminal justice things, and particularly on the border, spent 2 years focusing on our borders. We did multiple hearings and in July of 2002 issued this border report, which then we used partly as an information base as the Subcommittee on Infrastructure and Border Security of the Select Committee on Homeland Security was organized, because this was the first comprehensive document where we pulled together information on which border crossings are the major truck crossings, which ones are the major car crossings, where do individuals cross, where do we have multiple people putting pressure on our borders, and what things do we need to do to improve our security clearance systems, what things do we do to move the port security away from the U.S. but do the clearances farther out, whether it be Singapore or over in Europe at Rotterdam, for example. How can we preclear these things before they get to our borders?

It is fine to say we are going to add border patrol agents, but we are having trouble recruiting for the existing slots we have. What do we need to do internally to make sure we have an adequate supply of people who are willing to serve in the Department of Homeland Security, at the border and other things? How do we not lose other missions as we work on the border?

So there were a lot of things we were already progressing on at the legislative side. The executive branch has been working diligently to improve, for example, the border security. Let me give some examples related to border security.

It does not do any good to try to have all sorts of different approaches and have electronic systems that can talk to each other, and everybody wants to strengthen emergency response, and I am on the Subcommittee on Emergency Preparedness and Response of the Select Committee on Homeland Security, but that is all dealing with after disasters happen. The goal is to try to prevent a disaster from occurring. To do that, you have to make sure the terrorists do not get into our country; and when they come in, you have to make sure you have some means to track them.

This means that, A, we have to get our borders more secure, both north and south; B, we have to have information systems at the border that can identify the people and give us the ability to track them. That also means that if you are going to have an ID, and this is one of the things that will be moving through this week, you need to have some kind of thing that makes the identification secure.

If we do not have secure IDs, whether it is the U.S. visit program, whether it is from U.S. citizens, whether it is from noncitizens living in the United States, whether it is from people from Mexico or Canada or other countries that are coming in, we are only as safe as the ID

system they have. We are only as safe as our birth certificate system is.

If you can forge a birth certificate or a Social Security number and then get a legal ID, the whole system is broken. There is no tracking of money. It does not do us any good to have banking laws. It does not do us any good to have wiretap laws. It does not do us any good to be tracking people who have false IDs. So clearly, we have to get better systems of identification and more secure systems.

Secondly, we need to have machines that talk to each other. You cannot have somebody on the north border with one kind of machine over at the Detroit-Windsor crossing, and somebody with another kind of machine down there at the El Paso-Juarez crossing and find they cannot talk to each other; and if people cross different points, the machines cannot read the same information going into the same information bank.

If somebody gets on at an airport in Europe to come in and we want to precheck them, and somebody is coming in at the Los Angeles airport and our systems cannot cross-check or read each other, what is the point of doing all this? So we have to have better integration. These will be expensive systems, and so we will have to make decisions on which ones will work, and we are testing.

This does not happen real fast. You do not walk into Wal-Mart and say, by the way, we would like 2,000 of these systems tomorrow. They are not there. We have to make some basic decisions, then you have to produce on those decisions, and that is the process we are working through.

We have a multitude of other things. I have two small companies in Angola, Indiana, that are part of the two largest companies that make the container seals. We talk about port security. One of the vulnerabilities we have to nuclear weapons, chemical, and biological weapons is port security.

When something comes into the Los Angeles area or into the New York area, the question is do we know for sure whether there are nuclear, chemical or biological weapons in that container before it blows up the city? The answer is, well, we are preclearing and we are checking the IDs and so on. But if the container seal can be broken, so what if the bill of lading matches? All they do is pull the little sealant loose, put something in, and replace it at whatever point we have precleared.

One of the problems we have, for example, is no international standards on these container seals. Well, why? Partly, bluntly put, China has taken intellectual property rights and are mass producing these seals and they do not want to have anybody check for international standards because what they are making is illegal because they stole somebody's license. So that means that most of the container seals being used right now, are actually pirated and there is no security or way to check to see if those container seals can be modified or changed, or whether the number of seals is out there or whether they have rigged the market where some are on the black market and somebody could change the container seals.

So we can do all this other stuff, but if the container is not sealed and does not have protection, it does not do any good. That is why we talk about layered security. You have preclearance. You even need eventually to move downstream from preclearance, because the things coming in from Singapore are coming in from China and India and other places. You then need to be able to check them on the ship. You need to know that the sealant is there. You need to check the people who are moving these things at the harbor where it is loaded, on the ship as it is moving through, in the harbor as it is unloaded, and on the train.

For example, some stuff comes from China to Singapore to Vancouver, British Columbia, crosses at North Dakota on a train, the seventh biggest crossing is in North Dakota, headed down to Chicago and the Midwest. If it gets precleared in Singapore, think how many places that container could be modified if we do not have checks and have a secured container. So there are lots of different small aspects of this.

Now, let me mention a couple of other things that are difficult. There is a lot of criticism about merging all the different agencies. I do not sit on the Subcommittee on Defense of the Committee on Appropriations, but I want to suggest that there are things that are unique in the different branches of government that make this harder than the simplistic let us consolidate everything.

□ 2245

There are some missions that are more military, some missions that are more antiterrorist. Let me give an example of a couple of other things, and this has been a very bitter controversy in the Committee on Homeland Security as we fight over jurisdiction, and there are reasons we are having fights for jurisdiction. For example, the Coast Guard. The Coast Guard is one of the major ways that we fight narcotics.

If you are from Alaska, the Coast Guard provides some narcotics protection and pipeline protection and harbor protection, but the number one thing is fisheries. If the Coast Guard is not guarding the international waters, the Russian trawlers, among other countries, would take the salmon that do a circular route and they would net those salmon and destroy the salmon industry in the United States. So to Alaska, it is a lot of fisheries.

On the Great Lakes when we think of the Coast Guard, we think to some degree homeland security, to some degree narcotics; but you think search and rescue. The same thing off Florida. It is fine to say I think that those boats ought to be focused on homeland security, but do not let the overturned sailboat people drown. Do not let the narcotics come in. There are multiple missions to the Coast Guard.

We hear all politics are local. No one wants to die. Obviously, if we have a nuclear bomb and we are all destroyed, jobs do not matter much. But ultimately, jobs are the number one local issue. So let us talk about the legacy customs department inside homeland security. Their number one priority is homeland security, but if they allow goods in, I remember one case when I was a staffer, there was a dumping case in Seattle where they were going to dump enough lawn mower motors below the cost of production. It would have put a major company in Indiana out of business. It would have taken 2 years of market.

The goal was to say you cannot illegally dump. If the Customs people had not stopped the ship from unloading, then the unemployment rate in that area would have soared and people would have said to the then-Congressman, it is jobs. How could you let this company go?

Partly in fighting on international customs questions, as well as narcotics questions, the Department of Homeland Security has duties beyond just homeland security. We cannot just by a broad statement of saying oh well, let us just do homeland security, forget there are many reasons that these agencies exist beyond just homeland security. For example, we do not want the FBI just to do homeland security and forget about racketeering, which may or may not be related to al Qaeda, but may in fact result in lots of different deaths in the United States or driving people out of business or terrorizing people. There are other functions for these agencies. This is not going to be worked out in 30 days, but a lot of it is.

What we are seeing is progress in trying to work out a national intelligence director, progress on some new international initiatives, progress on cutting off financial support to terrorists, and isolating different terrorists. There will be bills passed this week in parts of this package regarding border security, international cooperation, government restructuring, and first responders. Much of what is in this report will be moving. The parts that are not moving are things that we have internally through the elected process in the United States said do not make a mistake that is more costly even than the current system.

One other brief point, and then I want to conclude with some remarks on drugs and terrorism.

The weekend before last, I went with the gentleman from Florida (Mr. WELDON) and the gentleman from Arizona (Mr. FRANKS) to Russia. We went to the city of Beslan; and it was the most awful single experience that I have seen. In that school, 32 terrorists attacked a school on the second day of school. They came up on the school

yard and drove approximately 1,500 teachers, students, and parents into the school building. Apparently they had planted bombs earlier to go off in different parts of the school if they needed to. Initially, they pushed the kids in.

Immediately, the 22 people they felt most likely to resist, young men and male teachers, were killed and thrown out of a second story window. We were the first Americans. The gentleman from Colorado (Mr. TANCREDO) went a couple days later, and he visited the people in the hospitals and said it was the most emotional experience he had been through because of the brutality of terrorists who seized children and shot them. Many parents were killed and the teachers were killed, and many of the kids were wounded with head wounds and different things as the parents tried to cover them up, and they could not get them covered. They deprived them of water and food for 3 days. At the site in this picture are all of the bottles of water, thousands of bottles of water, because those kids were deprived of water and if they complained, they shot them.

In this burned-out gym, the kids were crying. One man lost his wife and five children. The emotionalism, we felt it was important for us to stand with them. I have been to new graves, but never to a whole new graveyard, 300 some graves, mostly children spread over a big field. We felt it was important to say as Americans, and all of us broke down because it was so emotional.

This man, Speaker of the House, he had a 7-year-old son and a 10-year-old daughter inside. They put one of his children on the telephone. The boy said, ''Daddy, if you storm this, they are going to kill me and my sister.''

They stalled for a number of days. A bomb went off. A number of people got killed. They put his little boy on the telephone. Meanwhile kids, many were dead, some started to run out of the building. The terrorists started gunning down the children as they left. The parents outside decided to storm as well as the police outside, and they went in.

It was important for us as Americans to stand there and say, look, terrorism is evil wherever it occurs in the world, and we are in this fight together. This might have started as a local battle in Chechnya, but the proclaimed leader went to Afghanistan and he was trained by al Qaeda, and he came back a different man. Instead of fighting for freedom in Chechnya, he decide to murder children and parents and teachers and parent-volunteers in the second day of school, and to kill as many as 500, 600 kids.

Do you think Russia after having two planes go down and this school bombed, after hitting a theater, after hitting a subway, they do not understand the battle we are in right now? One of the things that the gentleman from Pennsylvania (Mr. WELDON) was talking to them about was having a homeland security conference over there and over here as we all look for new technologies to fight this battle because these crazed people who think they can do these suicide attacks on anybody at any time are a different breed. We have to take strong actions.

I want to make sure I make these points tonight that are the connections between narcotics and terrorism. I chair the narcotics committee and have for the last 4 years. And as the 9/11 Commission has pointed out and President Bush has pointed out, there are huge profits through drug trafficking that will continue to finance terrorism throughout the world. As President Bush pointed out in September 2001, ''The traffic in drugs finances the work of terror, sustaining terrorists. Terrorists use drug profits to fund their cells to commit acts of murder.''

Furthermore, as the U.S. steps up its efforts against more legitimate sources of funding, terrorist organizations will increasingly turn to drugs and similar illegal sources. As the 9/11 Commission has noted, the Federal Government, including DHS, must be able to adapt to these shifting strategies of the terrorists. ''Instead of facing a few very dangerous adversaries, the United States confronts a number of less visible challenges that surpass the boundaries of traditional nation-states and call for quick, quick imaginative, and agile responses.'' That is page 399.

Recognizing the central importance of stopping terrorist financing, the 9/11 Commission reported: ''Vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts. The government has recognized that information about terrorist money helps us to understand their networks, search them out, and disrupt their operations.'' Page 382.

The connections between drugs and terrorism are well-documented.

In Afghanistan, our subcommittee was told February 26, 2004, the State Department provided declassified information, which is just the tip of the iceberg, showing in Afghanistan two terrorist insurgent groups are financed by drug money and most likely are provided with logistical support by drug traffickers. Two other groups, al Qaeda and the IMU, probably receive at least logistical support from drug traffickers, and some reports suggest that they receive funds from drug trafficking as well.

Drugs and al Qaeda, in November 2002, Attorney General Ashcroft announced the arrest of three al Qaeda operatives who offered 600 kilograms of heroin and five metric tons of hashish in exchange for four Stinger shoulder anti-aircraft missiles.

With respect to terrorist groups in Colombia, the State Department has noted that the main terrorist organizations are heavily dependent on the funds derived from drug trafficking.

Worldwide, testimony before our subcommittee on May 11, 2004, Donald Semesky, DEA Chief of Financial Operations, stated that drug income is among the sources of revenue for some international terrorist groups, and the Department of Justice has highlighted links between groups and individuals under investigation for drug violations and terrorist organizations. In fact, 47 percent of the 36 foreign terrorist organizations identified and updated by the Department of State in October 2003 are on record with DEA as having possible ties to the drug trade.

Strong DHS action against drug trafficking is vital to overall efforts to stop the financing of terrorist activities. It was for this reason that Congress specifically provided that the primary mission of the Department included the responsibility to ''monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.''

For example, the Coast Guard, part of DHS, has seized a record 240,518 pounds of cocaine in fiscal year 2004, shattering the previous record of 138,393 pounds set in 2001. That is nearly double. That is $7.7 billion that will not go into the hands of the narcoterrorists.

Just this month, Federal agencies joined together to make a record seizure of an estimated 27 tons of cocaine on board three fishing vessels in the vicinity of the Galapagos Islands.

These record-breaking seizures, coupled with the record-breaking year, are an excellent example of what can be accomplished if DHS continues to improve intelligence-sharing and interagency cooperation.

As chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources, I would like to highlight two provisions of the bill that we are doing this week that address the importance of stopping drug trafficking to homeland security.

The first strengthens and clarifies the role of the counternarcotics officer at the Department of Homeland Security. The second requires that drug enforcement activities be one of the benchmarks for relevant employee performance appraisals at DHS.

I proposed both of these reforms which will improve the Department's anti-drug efforts.

The two provisions promote two key objectives, to deprive terrorists of their means of financing their operations: first, strengthening the effectiveness of the Department's narcotics interdiction efforts; and, second, improving coordination and cooperation among the Department's subdivisions and between the Department and other agencies with counterterrorism missions. As the 9/11 Commission reported: ''We recommend significant changes in the organization of the government. Good people can overcome bad structures. They should not have to.''

The Counternarcotics Office at DHS, this proviso was added. This office was not in the original draft of the President's bill. Thanks to the gentleman from Illinois (Mr. HASTERT), we were able to put this in the original reorganization of the Department of Homeland Security. This provision will modify that. The first provision, section 5025 of the Speaker's bill, and that could be changed, but that is where it is right now, would add a new section 878 to the Homeland Security Act of 2002, which created the new Department.

□ 2300

The new section replaces the current position of counternarcotics officer that was contained in the original 2002 act with an Office of Counternarcotics Enforcement headed by a director. At present, the counternarcotics officer, which we worked hard to get in, is nevertheless not actually an employee of DHS. Instead, he is a detailee employed by the Office of National Drug Control Policy, ONDCP. Furthermore, he has no authority to hire staff to assist him. The current law also fails to clearly define how the counternarcotics officer is to carry out his responsibilities. The new section 878 would rectify this problem by replacing the CNO with a director of counternarcotics enforcement, subject to Senate confirmation and reporting directly to the Secretary; assigning specific responsibilities to the new director, including oversight of DHS counterdrug activities and the submission of reports to Congress; and authorizing permanent staff assigned to an Office of Counternarcotics Enforcement as well as detailees from relevant agencies to assist the director.

In other words, we need a department with teeth. Quite frankly, there is no antidrug effort if we don't have legacy Customs, legacy Coast Guard, legacy Border Patrol fighting narcotics. We have no protection. Thirty thousand people died last year from narcotics, none from international terrorism, inside the United States. We have to remember, don't throw out the baby with the bath water and when we are doing reorganization, let us stay focused on multiple missions.

Secondly, the use of counternarcotics performance for certain DHS personnel evaluations. The second provision, section 5026 of the Speaker's bill, would add a new section 843 to the 2002 act, ensuring that employees involved in counternarcotics activities will be evaluated in part on the basis of such activities. It is vital that DHS encourage its law enforcement personnel to continue their efforts to stop illegal drug trafficking. Unfortunately, it is unclear whether drug enforcement is being given sufficient consideration by the department in developing its employee performance management system. A word search of the department's proposed new personnel rules, including those for performance management, 69 Federal Registry 8030–01, February 20, 2004 shows that the words ''narcotics'' and ''drugs'' do not appear at all. This, in the number one agency that is supposed to protect us.

New section 843 would require DHS to include as one of its criteria in a performance appraisal system for relevant employees performance of counternarcotics duties. In order to encourage such personnel to cooperate and coordinate efforts with other agencies, the new section also requires that this be a factor for consideration in performance appraisals as well.

I was hoping that we could address two things that are critical to our border efforts. One is, we have made some movement on and we are continuing to negotiate with the executive branch on what to do with the air marine division of the legacy Customs. The second is with the shadow wolves. If we cannot get control of the border at the Tohono O'odham or up on the north border in upstate New York where we have Indian nations on those borders and we cannot use creative things like the shadow wolves to do it, we have no protection on the border.

We held a hearing at Sells, Arizona, inside the Tohono O'odham nation. I asked one question of the Border Patrol. I said, when you see the cars go by here, are any of these people here for legitimate purposes? They said, no, we could stop any car and arrest anybody because all of them are pretty much here unless they are a member of the Tohono O'odham nation. What does that mean? It means that at the national park on the border there, we have had a ranger killed, they have closed down some of the best hiking trails in the United States. The day we held our hearing, the previous year they had, I think, 250 or 500 pounds of drug seizure the first 3 months of the year because other parts of the border were sealed off. They had something like 1,000 pounds. And the day of our hearing, when we had all these government officials there, they picked up a load of 300 pounds, 500 pounds, a load of 400 pounds, then got another load of 500 pounds. They took down more in one day while the Federal agents happened to be there for our hearing than they had in the previous 3 months, which was more by double the previous year.

It is an open border in parts of Arizona and Texas right now. And particularly where you have a nation that borders that and you have a functional group, you cannot be so rigid in DHS parliamentary guidelines that you cannot have some flexibility to keep inside these independent nations a group that was working and one of the only things that was working in that area. We need a similar thing up at the Indian nation on the north border in New York.

We are making lots of steps this week. There are many things that I and many other Members of this body would like to have in this bill, but it is an important step, and in fact we are moving with major legislation in multiple committees that will make our country even safer. We have made steady progress prior to 9/11, we have made dramatic progress since 9/11, and this week we are going to make even more dramatic progress working with this administration to make our country safer from terrorists.

Mr. FOSSELLA. Madam Speaker, I believe the ability for public safety officers to communicate to each other is one of the core principles in protecting this nation. Whether it is police officers and firefighters working together to save a child from a burning building or the FBI and local officials stopping terrorists before boarding a plane, the ability for local, State, and Federal public safety officers to communicate should be, and I believe is, one of the goals this Congress and administration diligently works to achieve.

Just Monday, Homeland Security Secretary Ridge announced the launching of an Office of Interoperability and Compatibility. This office will oversee the wide range of public safety interoperability programs and efforts currently spread across Homeland Security. These programs address critical interoperability issues relating to public safety and emergency response, including communications, equipment, training, and other areas as needs are identified.

I want to commend the Secretary for his leadership on this issue and would like to add that it is now Congress's duty to ensure this office has the resources and flexibility it will need to achieve it's goals. Just as importantly as it is to ensure that State firefighters can, and do communicate with State police officers, it is equally important that Congress, through its committees, remains committed to working with Federal agencies in making sure that they not just set goals, but that they accomplish them.

As was discovered in a hearing before the Energy and Commerce subcommittee on Telecommunications and the Internet earlier this month, achieving true interoperability will be one of the more difficult tasks First Responders will encounter in coming years. Despite a clear desire to achieve interoperability, there remain a number of traps that have continued to slow down progress.

One of those traps has been the interference public safety officers receive from some wireless carriers. More and more often, when a public safety officer responds to a call, he or she will arrive at the call site and find out their radio doesn't work because a private wireless carrier operating in the same spectrum band has a tower close to the call site. The interference is generally a result of the carrier's signal either overpowering or mutating public safety's signal.

For more than 3 years, the Federal Communications Commission studied the issue. It was clear that separating public safety spectrum from the interfering private wireless carrier's spectrum was the only solution. During this time, a number of my colleagues and I contacted the FCC to make it clear that whatever solution the FCC was to choose, it must cover all of the costs incurred by public safety. In July of this year, the FCC issued a ruling to address the problem. Since July, details of the proposal have been released and the FCC has continued communication with the interfering company. While it is good to see that the FCC is making progress on their proposal, I continue to believe that the only solution will

ensure that public safety no longer receive interference, and that all of their relocation costs are covered in full with no possibility for a funding shortfall.

The second trap that I previously spoke of involves public safety's need for additional spectrum. While Congress and the FCC could spend their time finding and allocating public safety new spectrum, I believe it would be more prudent to eliminate the digital divide and give public safety the 24 MHz of spectrum they've been allocated in the Balanced Budget Act of 1997. The Balanced Budget Act allocates an additional 24MHz of spectrum to public safety when broadcasters operating on their current analog spectrum transition to digital spectrum.

While many broadcasters have prepared for the transition, others have chosen to bet against congressional action and become spectrum squatters, holding hostage the very spectrum that public safety needs to protect this country. It is time for the broadcasters to vacate their analog spectrum, and I believe that under the leadership of Chairman BARTON and my colleagues at the Energy and Commerce Committee, we will be able to offer members the opportunity to vote on legislation that will eliminate the digital divide and get public safety the spectrum that they need to make our communities a safer place to live.

In closing I would like to recognize the public safety officials in our country for that work tirelessly to ensure that our families are safe and able to enjoy the freedoms that this country provides. While our troops abroad are working to ensure we don't see terrorism and war in our streets, it's our public safety officers that prevent and respond to events at home.

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

GENERAL LEAVE

Mr. SOUDER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Is there objection to the request of the gentleman from Indiana?

There was no objection.

IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. MCCOTTER) is recognized until midnight.

Mr. MCCOTTER. Madam Speaker, I would like today to give not a novel, certainly not a unique overview of what I think some of the things we need to do to help win the battle of Iraq constitute. Again many of these things are being done, but I just want to try to put it forward as a comprehensive exposition of what we need to do to win. I think that there are three key areas involved in this struggle along all fronts upon which we have to continue to press: democracy, the economy and, of course, the military.

In terms of diplomacy, I believe everyone understands that the key now is the holding of free elections on time in Iraq. The U.N. has agreed with this, and while their support is welcome, it remains tenuous. We should encourage all member states of the U.N. to rise to the challenge of democracy in Iraq and provide the necessary personnel to defend the monitors and help these elections go forward. For as we know, what is going to happen is that the terrorist counterattack on democracy in Iraq will escalate. They will do everything they can to derail these elections. Yet that violence and terror in and of itself should not be enough to deter us and certainly should not deter the Iraqi people.

And as for the naysayers who claim that absent a perfect election in Iraq, it cannot be deemed a representative success, I would just like to ask those detractors to ask themselves why we demand more from the Iraqi people in a civil war than we demanded from ourselves in our own American civil war; because all one needs to do is to look at the map of 1864 to see that the States in rebellion did not participate in Abraham Lincoln's reelection. Yet I highly doubt that anyone today can say that it was not a representative election nor an election that was worthy of the American people.

In terms of the economy, one of the things that we face in Iraq clearly is the passive-aggressive resistance of the Iraqi people. After years of oppression, after years of being terrorized and after seeing so many international promises fall away, it is very difficult for them to stand up and fight on their own without the assurance that the United States and our coalition partners will be behind them. But it is also important to remember that while we provide them the possibility of a transformational change from tyranny to democracy, we must always remember that in any representative political system there is also a transactional element; for it is one thing to profess ideals to an oppressed people who have been newly liberated, it is another thing to provide concrete, tangible benefits to the populace to show them the investment in their future.

I think that one of the things that we have to do in Iraq is build on the town council model. We have to take a bottom-up approach, a grassroots approach to reconstruction in Iraq. We have to have and invest full decision-making authority into town councils, tribal leaders, religious leaders, and other community organizations that have been set up, let them determine what infrastructure projects in their area must be worked upon, let them figure out the processes by which they will come to these determinations and let them have control of the money to implement these decisions. These are very formative, basic steps along the road to a transition to democracy and to building lasting institutions upon which the Iraqi people can build.

I also think that in conjunction with the grassroots approach to the local control of the decision-making and the implementation of those decisions is that we should adopt an Iraqi oil fund similar to the one that we have in the State of Alaska. The Iraqi oil fund would take portions of the proceeds from the sale of Iraq's oil, place it in a fund and distribute it per capita to the people of Iraq.

The benefits of such a model, which we have seen in Alaska, will be also readily apparent in Iraq. It will provide a direct economic benefit to the people of Iraq, showing them the stake in their future. It will provide an immediate jump-start to the Iraqi economy and get them up to the average per capita spending that is expected to start any semblance of a stable economy. I think we should also use it as spur to register adults to vote in the upcoming elections, for if one is not a registered voter, one cannot receive the benefits of the Iraq oil fund.

I think that this will also prove to help uproot terrorists because no terrorist will be eligible to receive the per capita annual appropriation from the Iraqi oil fund. This will also, in turn, I believe help the Iraqi people further their efforts to defend their oil infrastructure and further their efforts to uproot the terrorists who would disturb it because the money would be being taken out of their mouths. It would be taken out of their children's mouths. In short, it would be an intolerable situation for them to allow to continue.

□ 2310

I think that we would also see a quelling of some of the sectionalism. I think we would begin to see that oil, rather than a divisive force amongst the regions of Iraq, could then be used as a means of unifying them and perhaps give them a greater semblance of an Iraqi national identity.

As we have seen throughout the history of Iraq, oil has often been used as the dictator's tool for fueling his oppression of his people. If this oil fund is written into the Iraqi constitution, not only will it hasten the adoption of an Iraqi constitution, it will safeguard against one individual being able to rise up and usurp control of the oil funds because truly the oil will belong to the people, and I believe the people will jealously guard this right under their new constitution.

I think it will also do one other thing: It will make the people less susceptible to any attempts by the terrorists or any future dictator to prey upon their impoverishment by offering them blandishments or other remunerative items in return for their loyalty to a new regime or to a new movement.

I think from the United States' point of view it will do something very important: It will belie the perception amongst much of the Middle Eastern population and amongst some of Western Europe and amongst some of our own population that the United States is there to take the oil, for we are not. The oil belongs to the Iraqi people.

What more tangible, palpable way could that be proven than by having this put into their constitution?

I also believe it has another tangential benefit: that the United States, by being willing to help the Iraqi people establish an oil fund, the oil fund will stand in stark contrast to the Oil for Food scandal that was operated by the U.N. which was perpetrated on the people of Iraq and in which many corrupt politicians in both the U.N. and in Iraq benefited at the expense of the poor Iraqi people.

I think that finally under the economy, we have to look at debt forgiveness. It is one thing for world powers or other members of the world community to claim that a free and stable Iraq is not their problem to the point where they will send troops to help win this battle, but it is another thing to say that they will not forgive the debts they incurred dealing with Saddam Hussein to help further the goal of Iraqi prosperity on the road to democracy. If we think about it, every country that has sold weapons to Saddam Hussein and has outstanding debt on the basis of those weapons is asking the newly liberated Iraqi people to pay the debt for the guns and the weapons that Saddam Hussein used to kill and torture them into submission. I think that is an inhuman request of any government, and I think that unless the world powers that sold these weapons are prepared to forgive these debts, I think it is morally justified by the Iraqi people to repudiate any debts incurred by Saddam Hussein's regime for the acquisition of weapons, be they conventional, be they weapons of mass destruction, or be they dual-use technologies or any instrument of oppression that he applied to his people.

Militarily I think that we have to hone our military and our intelligence to a fine precision. I think we have to prioritize the three threats that we face in Iraq at the present time. They are, one, I think the foreign terrorists clearly, followed by the Baathists and the Sunnis, many of them who are operating with the foreign terrorists, and of course the radical Shiia Iraqis who have come back from the shelter of Iran. I think that these are prioritized by order of importance for the long term.

The foreign terrorists are there to drive the Americans out. I think that over time, the Baathist remnants that currently have a marriage of convenience with them, should the Americans be thrown out, the Baathists and the Sunnis will then immediately turn upon them, which will lead to a blood bath in the short run and could further incite a civil war. We have to start with the foreign terrorists and the Baathists in a simultaneous effort to eradicate them from the terror that they are perpetrating on their country.

Third, we must then face the threat from the radical Shiia movement personified by the radical cleric Moqta al-Sadr. And it is important to remember that at the outset of the Iran-Iraq War, in Saddam Hussein's mind he was fighting a defensive war, for after the Khameni regime attained power through the Iran revolution, they immediately began destabilizing the secular Baath regime and targeting members of the Baath government for assassination and terrorizing them to undermine the Sunni-Baathist secular party and replace it with the Shiia revolutionary government modeled upon Iran.

These people were then forced from the country by Saddam Hussein, where they were sheltered in Iran for decades. They have been returning, and as they return, let there be no doubt that the incidents we see in Najaf and in other areas of the south have been perpetrated in many ways by these people who have come back to continue the quest to establish an Iranian mullah model upon the people in Iraq.

The tactics that we see from all three, predominantly the terrorists and the Sunnis, of course, are very similar to those that were perpetrated by the Colombian cartel drug lord, Pablo Escobar, for, in short, he utilized a private army to terrorize and destabilize the Government of Colombia, and he used largesse to the population to in many cases buy their loyalty or at least their silence and submission. As for the largesse that is handed out, if we can refer back to the economic model that I laid out, I think that will be very helpful in preventing that type of temptation by the Iraqi people.

In terms of his private army and in terms of the efforts to destabilize the Iraqi government, they are very similar to what the Colombian drug lord did. He is targeting the police. He is targeting the army. He is targeting the government, especially law enforcement within the government, including the judiciary and ministers. He is targeting infrastructure. He is doing that to continue to disrupt the supply of oil and continue the impoverishment and the suffering of the Iraqi people. And, of course, they are targeting civilians to generally terrorize the country.

Finally, just as Escobar did, these are designed and geared as much towards inflicting casualties and wanton destruction as they are to influencing the media coverage of their action, and thus having a multiplying effect of their mass murder by bringing it to millions of homes across the globe.

What we have to do to stop this is to understand these tactics and to ourselves adapt to the targeting of these institutions and these individuals and guard against them. We must also make sure that we rely upon the fledgling Iraqi army security forces and citizenry in order to root out their infrastructure and destabilize them in the very same manner that they are trying to destabilize the people of Iraq. We have to address their organization, root and branch. We can do that. I believe we have started to, and I believe we will continue to.

We must also make sure that our coalition partners expediently and decisively strike back in troubled areas, whether or not the Iraqi national guard and security services are prepared, for in the final analysis, we cannot leave a Fallujah to be a hotbed of terrorism. We cannot leave Najaf and the holy shrines in Shiia Islam in the hands of a radical renegade cleric.

It is my belief that the people of Iraq have had enough of this and that what they really need to see is a decisive stand to reestablish order in that country. And if we are not prepared to do that, every day we wait, there is an erosion of confidence in the Iraqi government and in the coalition, and another day's worth of despair that brings Iraqi people closer to a newly implemented dictatorship of terror.

We must also make sure that we, the Nation that brought the world mass communication, fully engage in the battle of ideas and, yes, to use what is often thought a pejorative word, the battle of propaganda. We must get our message out to the Iraqi people. We must get our message out to the Arab world, and we must get our message out to the entire world. It is very critical that the people of Iraq see, through their newly bought satellite dishes, which were outlawed by Saddam Hussein, what freedom is doing and what the suffering and sacrifice of their own fellow Iraqis, notably the police and the military, who have been targeted for death, are doing to win that freedom.

I think we must also press as quickly as we can here in the domestic front to come up with new technologies to combat the tactics, especially the roadside bombs, that are attacking our troops in the field.

I think, finally, we must also make sure that we continue to empower American troops on the ground with the freedom to make combat decisions.

□ 2320

We must allow them to make these combat decisions free of political constraints in order to ensure that they come home to their loved ones with their mission accomplished.

Madam Speaker, in the end, through military, economic and diplomatic means, we must press forward, because our enemy is not only the terrorists, our enemy is time; for while this is a battle of resolve, it is also a battle of reason, and the longer Iraq appears to be irrational and unreasonable and incapable of governance, the time ticks on our keeping our resolve.

At the present time, let us remember that our task is far greater than that of the terrorists. The terrorists have the task of destabilizing a country. We and our coalition partners have the task of stabilizing it. The latter tasks is far harder. It will call upon our every ounce of commitment; it will call upon as well our every ounce of intelligence to come up with a rational plan to win this battle and to secure Iraq in the community of nations.

To anyone, I would welcome their comments. Anyone who has any suggestions, I would welcome them, because, in the end, this is an exposition of what I hope to be a rough outline of a coherent plan. Not having possession of the absolute truth more than anyone else, I would like to know what other people think, because at this time in our nation's history we are not Republicans, we are not Democrats, we are not ideologues, we are all Americans. So let us see what we can come up with, and, as we always have, we will win.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HONDA (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. BARRETT of South Carolina (at the request of Mr. DELAY) for today on account of attending the visitation for Staff Sergeant Tony B. Olaes, USA, who was killed September 20, 2004, in Shkin, Afghanistan.

Mr. BOEHLERT (at the request of Mr. DELAY) for today and the balance of the week on account of heart surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RYAN of Ohio) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. DICKS, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

(The following Members (at the request of Mr. COLE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, September 29.

Mr. COLE, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, September 29.

Mr. SMITH of Michigan, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on September 24, 2004, he presented to the President of the United States, for his approval, the following bills.

H.R. 265. To provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes.

H.R. 1521. To provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

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.

H.R. 1648. To authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

H.R. 1658. To amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

H.R. 1732. To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes.

H.R. 2696. To establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

H.R. 3209. To amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project.

H.R. 3249. To extend the term of the Forest Counties Payments Committee.

H.R. 3768. To expand the Timucuan Ecological and Historic Preserve, Florida.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 29, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9786. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

9787. A letter from the Deputy Chief, Programs and Legislative Division, Office of the Legislative Liaison, Department of the Air Force, Department of Defense, transmitting in accordance with the Office of Management and Budget (OMB) Circular No. A-76, ''Performance of Commercial Activities,'' a cost comparison to reduce the cost of the Base Operating Support function at March Air Reserve Base (ARB), California; to the Committee on Armed Services.

9788. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for the Pacific Northwest Facilities Management in Silverdale, WA (initiative number NC20000653); to the Committee on Armed Services.

9789. A letter from the Acting Deputy Assistant Secretary of Defense for Reserve Affairs (Materiel and Facilities), Department of Defense, transmitting the annual National Guard and Reserve Equipment Report (NGRER) for fiscal year (FY) 2005, pursuant to 10 U.S.C. 10541; to the Committee on Armed Services.

9790. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report entitled ''Office of Juvenile Justice and Delinquency Prevention (OJJDP) Annual Report 2002,'' pursuant to 42 U.S.C. 5617 and 42 U.S.C. 5601; to the Committee on Education and the Workforce.

9791. A letter from the Secretary, Department of Health and Human Services, transmitting the Annual Report on the Developmental Disabilities Programs for Fiscal Years 2001 and 2002, pursuant to 42 U.S.C. 15005 Public Law 106–402, section 105; to the Committee on Energy and Commerce.

9792. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 08-04 to inform of an intent to sign a Memorandum of Understanding (MOU) between the United States and Australia for Cooperative Development, Production, and Support of the Combat Control System (CCS) AN/BYG-1 Tactical Subsystem, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9793. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 07-04 which informs of an intent to sign a Project Agreement between the United States, Canada, and the United Kingdom for Plague Vaccine Acquisition, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9794. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Norway (Transmittal No. DDTC 071-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9795. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel (Transmittal No. DDTC 062-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9796. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Kazakhstan (Transmittal No. DDTC 064-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9797. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the United Kingdom (Transmittal No. DDTC 060-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9798. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a

contract to Japan (Transmittal No. DDTC 066-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9799. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Mexico (Transmittal No. DDTC 067-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9800. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed sale of defense articles or defense services to Hungary (Transmittal No. DDTC 063-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9801. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Canada (Transmittal No. DDTC 056-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9802. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certifiation of a proposed technical assistance agreement for the export of defense articles or defense services sold to France and Brazil (Transmittal No. DDTC 068-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9803. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification regarding the proposed transfer of major defense equipment from the Government of Singapore (GOS) (Transmittal RSAT-04-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9804. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting on behalf of the Secretary of State and the U.S. Representative to the IAEA, a report detailing assistance to Iran from the International Atomic Energy Agency in regards to the Bushehr nuclear power plant during calendar year 2003, pursuant to 22 U.S.C. 2021 note Public Law 107—228 section 1344(a); to the Committee on International Relations.

9805. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9806. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting a letter to inform that the Department of Commerce will assume the licensing responsibility for exports and reexports to Iraq, by virtue of the President's termination of Executive Order 12722 relating to the Iraqi invasion of Kuwait. In so doing, the Department is imposing foreign policy-based export controls on exports and reexports to Iraq and transfers within Iraq, of certain items subject to the Export Administration Regulations (EAR); to the Committee on International Relations.

9807. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of items to Iraq is in the national interest of the United States pursuant to Section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003, Pub. L. 108-11 (Transmittal No. DTC 05IZ-04); to the Committee on International Relations.

9808. A letter from the Director, Benefit Design and Compliance, AgriBank FCB, transmitting the annual reports disclosing the financial condition of the Retirement Planfor the Employees of the Seventh Farm Credit District, Eleventh Farm Credit District, and Northwest Farm Credit Services as required by Public Law 95-595, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

9809. A letter from the Secretary, Department of Transportation, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, and the Office of Management and Budget Memorandum 04-07, the Department's report on competitive sourcing efforts for FY 2003; to the Committee on Government Reform.

9810. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, ''Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 2nd Quarter of Fiscal Year 2004''; to the Committee on Government Reform.

9811. A letter from the Director, Office of Management and Budget, transmitting the 2004 Federal Financial Management Report as required by the Chief Financial Officers (CFO) Act of 1990, marking the 12th report submitted by the Office of Management and Budget (OMB) on the government-wide status of financial management, pursuant to 31 U.S.C. 3512; to the Committee on Government Reform.

9812. A letter from the Secretary, Department of the Interior, transmitting a draft bill ''To clarify the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historical Park, and for other purposes''; to the Committee on Resources.

9813. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a copy of the Bureau of Justice Statistics report entitled ''Data Collections for the Prison Rape Elimination Act of 2003,'' pursuant to Public Law 108—79, section 4(c)(1) (117 Stat. 977); to the Committee on the Judiciary.

9814. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's Twenty-Sixth Annual Report to Congress and the activities during Fiscal Year 2003 as pursuant to subsection (j) of section 7A of the Clayton Act, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

9815. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a report on the assessment of the general conditions of confined disposal facilities in the Great Lakes, in accordance with Section 513 of the Water Resources Development Act of 1996; to the Committee on Transportation and Infrastructure.

9816. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fairbury, NE. [Docket No. FAA-2004-18014; Airspace Docket No. 04-ACE-43] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9817. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Jamestown, KY [Docket No. FAA-2004-16904; Airspace Docket No. 04-ASO-2] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9818. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Des Moines, IA [Docket No. FAA-2004-17145; Airspace Docket No. 04-ACE-11] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9819. A letter from the Program Analyst, 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 August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9820. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fulton, MO [Docket No. FAA-2004-17149; Airspace Docket No. 04-ACE-15] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9821. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Amendment of Class E Airspace; New Smyrna Beach, FL [Docket No. FAA-2004-16919; Airspace Docket No. 04-ASO-3] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9822. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kimball, NE [Docket No. FAA-2004-17433; Airspace Docket No. 04-ACE-31] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9823. A letter from the Program Analyst, 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 August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9824. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Kipnuk, AK [Docket No. FAA-2004-17497; Airspace Docket No. 04-AAL-05] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9825. A letter from the Program Analsyt, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and A300 B4; Model A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300-600); and Model A310 Series Airplanes [Docket No. 2003-NM-274-AD; Amendment 39-13701; AD 2004-13-19] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9826. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 390 [Docket No. FAA-2004-18580; Directorate Identifier 2004-CE-12-AD; Amendment 39-13735; AD 2004-15-01] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9827. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2003-NM-81-AD; Amendment 3913733; AD 2004-14-24] (RIN:

2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9828. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2004-NM-48-AD; Amendment 39-13734; AD 2004-14-25] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9829. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319-111, -112, -113, and -114; A320-111, -211, -212, and -214; and A321-111, -112, and -211 Series Airplanes [Docket No. 2002-NM-201-AD; Amendment 39-13732; AD 2004-14-23] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9830. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Raft System; Correction [Docket No. 99-NE-31-AD; Amendment 39-13445; AD 2004-03-01] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9831. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82(MD-82), DC-9-83 (MD-83), and DC-9-87(MD-87) Airplanes; and Model MD-88 Airplanes; and Model MD-90-30 Airplanes [Docket No. 2003-NM-122-AD; Amendment 39-13497; AD 2004-05-03] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9832. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Mystere-Falcon 900 Series Airplanes [Docket No. 2001-NM-390-AD; Amendment 39-13510; AD 2004-05-15] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9833. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes Docket No. 2004-NM-03-AD; Amendment 39-13514; AD 2004-05-19] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9834. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland (RRD)(Formerly Rolls-Royce, plc) TAY 611-8, TAY 620-15, TAY 650-15, and TAY 651-54 Series Turbofan Engines [Docket No. 2004-NE-11-AD; Amendment 39-13517; AD 2004-05-22] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9835. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 365 N3 Helicopters [Docket No. 2003-SW-11-AD; Amendment 39-13523; AD 2004-05-28] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9836. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B Helicopters [Docket No. 2003-SW-12-AD; Amendment 39-13524, AD 2004-05-29] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9837. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-200 Series Airplanes Modified by Supplemental Type Certificate ST00516AT [Docket No. 2002-NM-238-AD; Amendment 39-13522; AD 2004-05-27] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9838. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Series Airplanes [DOcket No. 2002-NM-14-AD; Amendment 39-13521; AD 2004-05-26] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9839. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines [Docket No. 2003-NE-56-AD; Amendment 39-13525; AD 2004-05-30] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9840. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. 2002-NM-101-AD; Amendment 39-13554; AD 2004-07-10] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9841. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes [Docket No. 2002-NM-174-AD; Amendment 39-13483; AD 2004-04-03] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9842. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Models HC-B5MP-3C/M10876K Propellers [Docket No. 2003-NE-44-AD; Amendment 39-13569; AD 2004-07-25] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9843. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness DIrectives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines; Correction [Docket No. 2003-NE-56-AD; Amendment 39-13525, AD 2004-05-30] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9844. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Manual Requirements in Part 135; Correction [Docket No. FAA-2004-17119] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9845. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146-RJ Series Airplanes; and BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. 2001-NM-317-AD; Amendment 39-13541; AD 2004-06-15] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9846. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report to Congress on the delayed implementation of the revised Office of Management and Budget Circular A-76, ''Performance and Commercial Activities,'' pursuant to 108—136, section 335; jointly to the Committees on Armed Services and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 2941. A bill to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes; with an amendment (Rept. 108–701). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO. Committee on Resources. H.R. 4066. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes; with an amendment (Rept. 108–702). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4579. A bill to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes (Rept. 108–703). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 5009. A bill to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes (Rept. 108–704). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 801. Resolution providing for consideration of the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage (Rept. 108–705). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 802. Resolution providing for consideration of the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes (Rept. 108–706). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 803. Resolution providing for consideration of the bill (H.R. 3193) to restore second amendment rights in the District of Columbia (Rept. 108–707). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PORTER (for himself, Mr. GIBBONS, and Ms. BERKLEY):

H.R. 5151. A bill to transfer administrative jurisdiction over certain land in Clark County, Nevada, from the Secretary of the Interior to the Secretary of Veterans Affairs; to the Committee on Resources.

By Mr. NORWOOD:

H.R. 5152. A bill to require the Secretary of Defense to take such actions as are necessary to change the reimbursement rates and cost sharing requirements under the TRICARE program to be the same as, or as similar as possible to, the reimbursement rates and cost sharing requirements under the Blue Cross/Blue Shield Standard Plan provided under the Federal Employee Health Benefit program under chapter 89 of title 5, United States Code; to the Committee on Armed Services.

By Ms. HERSETH (for herself, Mr. EVANS, Mr. MICHAUD, and Mr. UDALL of New Mexico):

H.R. 5153. A bill to amend title 38, United States Code, to extend the Native American veteran housing loan pilot program; to the Committee on Veterans' Affairs.

By Mr. TURNER of Ohio (for himself and Mr. KLINE):

H.R. 5154. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Ways and Means.

By Mr. KUCINICH (for himself, Mr. OWENS, Mr. GRIJALVA, Mr. CONYERS, Ms. LEE, Mr. SERRANO, Mr. DAVIS of Illinois, and Mr. JACKSON of Illinois):

H.R. 5155. A bill to establish the National Institute for Biomedical Research and Development; to the Committee on Energy and Commerce.

By Mr. GREEN of Texas:

H.R. 5156. A bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes; to the Committee on Ways and Means.

By Mr. NETHERCUTT (for himself and Ms. DUNN):

H.R. 5157. A bill to amend the Public Health Service Act to expand the risk pools that qualify for high risk pool grants; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself and Mr. LANTOS):

H.R. 5158. A bill to clarify the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historical Park, and for other purposes; to the Committee on Resources.

By Mr. RAHALL:

H.R. 5159. A bill to authorize the Secretary of Homeland Security to award research and equipment grants, to provide a tax credit for employers who hire temporary workers to replace employees receiving first responder training, to provide school-based mental health training, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Science, and Transportation and Infrastructure, 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. SAXTON (for himself, Mr. SMITH of New Jersey, and Mr. ANDREWS):

H.R. 5160. A bill to amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. SPRATT, and Mr. MEEHAN):

H.R. 5161. A bill to provide for counterproliferation measures; to the Committee on International Relations.

By Mr. YOUNG of Florida:

H.J. Res. 107. A joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, 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. COOPER (for himself, Mr. COLE, and Mr. DAVIS of Tennessee):

H.J. Res. 108. A joint resolution congratulating and commending the Veterans of Foreign Wars; to the Committee on Veterans' Affairs.

By Mr. BURGESS:

H. Con. Res. 500. Concurrent resolution honoring the goals and ideals of National Nurse Practitioners Week; to the Committee on Energy and Commerce.

By Ms. NORTON (for herself, Mr. CONYERS, and Mr. TOM DAVIS of Virginia):

H. Con. Res. 501. Concurrent resolution honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival; to the Committee on Education and the Workforce.

By Mr. MOORE (for himself, Mr. RYUN of Kansas, Mr. MORAN of Kansas, Mr. OWENS, Mr. BLUMENAUER, and Mr. BURNS):

H. Res. 804. A resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, acknowledging the commitment of the National Geographic Society to geography education, and recognizing the need to improve geography education in the United States; to the Committee on Education and the Workforce.

By Mr. PORTER (for himself, Mr. BOEHNER, Mr. HOEKSTRA, Mrs. BIGGERT, Mr. OSBORNE, Mr. GINGREY, Mr. HINOJOSA, Mrs. DAVIS of California, Mr. GRIJALVA, and Mr. ISRAEL):

H. Res. 805. A resolution supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. OWENS.
H.R. 475: Mr. WAXMAN.
H.R. 623: Mr. MCGOVERN.
H.R. 728: Mr. DEAL of Georgia.
H.R. 742: Ms. MAJETTE and Ms. HERSETH.
H.R. 792: Mr. GOODE and Mr. MCCOTTER.
H.R. 814: Mr. CLYBURN.
H.R. 832: Mr. OBERSTAR, Mr. HOYER, and Mrs. MCCARTHY of New York.
H.R. 1105: Mr. DINGELL.
H.R. 1231: Mr. CHOCOLA and Mr. ISSA.
H.R. 1329: Mr. NETHERCUTT.
H.R. 1430: Ms. ROYBAL-ALLARD.
H.R. 1563: Mr. PASTOR, Mr. CROWLEY, and Mr. RANGEL.
H.R. 1713: Ms. MAJETTE.
H.R. 1780: Mr. SESSIONS.
H.R. 1958: Mr. ENGLISH, Mr. BERMAN, Mr. RANGEL, Mr. WEINER, Ms. WATSON, and Mr. FARR.
H.R. 2141: Ms. DELAURO, Mrs. MALONEY, and Mr. VAN HOLLEN.
H.R. 2262: Mr. LAMPSON.
H.R. 2265: Mr. CARSON of Oklahoma and Mr. BRADY of Texas.
H.R. 2413: Mr. LAHOOD.
H.R. 2442: Mr. CLYBURN.
H.R. 2680: Mr. BAKER, Mr. BONNER, Mrs. BONO, Mr. DEAL of Georgia, Mr. EVERETT, Mr. GINGREY, Mr. HAYWORTH, Mr. HYDE, Mr. NEY, Mrs. NORTHUP, Mr. WALSH, Mr. WOLF, Ms. HARRIS, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. RAMSTAD, Ms. DUNN, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. ISAKSON, and Ms. ROS-LEHTINEN.
H.R. 2852: Mr. COX.
H.R. 2967: Mr. SIMMONS.
H.R. 3193: Mrs. BIGGERT and Ms. HERSETH.
H.R. 3420: Mr. LAMPSON.
H.R. 3438: Mr. LEWIS of California, Mr. CHANDLER, Mr. MARIO DIAZ-BALART of Florida, and Mr. MEEKS of New York.
H.R. 3634: Mrs. JONES OF OHIO.
H.R. 3729: Mr. STRICKLAND, Mr. DUNCAN, Mr. KUCINICH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DOYLE, Mr. SULLIVAN, Mr. OLVER, Mr. CONYERS, Mr. POMBO, and Mr. FARR.
H.R. 3774: Mr. HOLT.
H.R. 3858: Mr. VISCLOSKY.
H.R. 3947: Mr. BRADLEY of New Hampshire.
H.R. 3952: Mr. THORNBERRY.
H.R. 3956: Mr. CROWLEY.
H.R. 3965: Ms. BERKLEY.
H.R. 4035: Mr. VAN HOLLEN.
H.R. 4067: Ms. CARSON of Indiana and Mrs. MALONEY.
H.R. 4094: Mrs. MCCARTHY of New York and Mr. FILNER.
H.R. 4113: Mr. NEY.
H.R. 4147: Mrs. LOWEY.
H.R. 4214: Mr. ANDREWS.
H.R. 4256: Mr. FILNER.
H.R. 4261: Ms. MAJETTE.
H.R. 4262: Mr. GEORGE MILLER of California and Ms. KILPATRICK.
H.R. 4264: Mr. KOLBE, Mr. RANGEL, and Mr. MORAN of Virginia.
H.R. 4343: Mr. SESSIONS.
H.R. 4413: Mr. OWENS.
H.R. 4420: Mr. ROGERS of Michigan, Mr. COLE, Mr. GARY G. MILLER of California, Mr. MARIO DIAZ-BALART of Florida, Mr. POMBO, Mr. WAMP, Mr. MCINTYRE, Mr. TERRY, Mr. GINGREY, and Mr. LAHOOD.
H.R. 4433: Mrs. NAPOLITANO, Mr. HOUGHTON, and Mr. BOEHLERT.
H.R. 4498: Mr. EMANUEL.
H.R. 4547: Mr. CHABOT, Mr. JENKINS, Mr. CANNON, Mr. BACHUS, Ms. HART, Mr. PENCE, Mr. HYDE, Mr. KELLER, Mrs. BLACKBURN, Mr. FORBES, Mr. GOODLATTE, Mr. HOSTETTLER, and Mr. KING of Iowa.
H.R. 4578: Mr. RUSH, Mr. MANZULLO, and Mr. MORAN of Virginia.
H.R. 4585: Ms. WATSON, Mr. HINOJOSA, Mr. ENGEL, and Mrs. LOWEY.
H.R. 4597: Mr. ANDREWS.
H.R. 4610: Mr. CUNNINGHAM, Mr. KUCINICH, and Mr. CARDIN.
H.R. 4616: Ms. NORTON, Mrs. LOWEY, and Mr. WEXLER.
H.R. 4634: Ms. HART, Mr. NEY, and Mr. MANZULLO.
H.R. 4682: Mrs. JONES of Ohio, Mr. ETHERIDGE, and Mr. VISCLOSKY.
H.R. 4706: Mr. CARDOZA and Mr. KILDEE.
H.R. 4730: Mr. HALL and Mr. LAHOOD.
H.R. 4740: Mr. OLVER.
H.R. 4772: Ms. VELAQUEZ.
H.R. 4776: Mr. MICHAUD and Ms. WOOSLEY.
H.R. 4793: Ms. MCCARTHY of Missouri.
H.R. 4875: Mr. LANGEVIN.
H.R. 4888: Mr. FILNER, Mr. VAN HOLLEN, Ms. WOOLSEY, Mr. PLATTS, Mr. GREEN of

Texas, Mr. GEORGE MILLER of California, Mr. WAXMAN, and Mr. CASE.

H.R. 4898: Mr. MCDERMOTT, Ms. ROYBAL-ALLARD, Mr. GREEN of Texas, and Mr. DOGGETT.

H.R. 4924: Mr. YOUNG of Florida, Mr. PUTNAM, Mr. WELDON of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. MILLER of Florida, and Mr. SHAW.

H.R. 4936: Mr. GORDON, Ms. SCHAKOWSKY, Mr. EDWARDS, Mr. SNYDER, Mr. DAVIS of Alabama, Mr. LAMPSON, Mr. RYAN of Ohio, Mr. MEEHAN, Mr. SANDLIN, Mr. HOEFFEL, and Mr. LARSEN of Washington.

H.R. 4967: Mr. HOLT, Mr. MCDERMOTT, Mr. LANTOS, Ms. DELAURO, Mr. FROST, Mr. HOEFFEL, Mr. WEXLER, Mr. KUCINICH, Mr. OWENS, and Mr. KING of New York.

H.R. 4985: Mr. BASS.

H.R. 4994: Mrs. MALONEY, Mr. LARSON of Connecticut, and Mrs. CAPPS.

H.R. 5022: Mr. EHLERS.

H.R. 5071: Mr. VISCLOSKY, Mr. HINCHEY, Mr. ROGERS of Alabama, Mr. CROWLEY, Mr. ANDREWS, Mr. MCNULTY, Mr. CUNNINGHAM, Ms. BERKLEY, and Mr. MCGOVERN.

H.R. 5079: Mr. BACHUS.

H.R. 5080: Mr. BACHUS.

H.R. 5081: Mr. OSBORNE.

H.R. 5094: Mr. WELDON of Florida.

H.R. 5100: Ms. JACKSON-LEE of Texas, Mr. CAPUANO, Mr. OLVER, Mr. MORAN of Virginia, Mr. BLUMENAUER, Mrs. BONO, and Mr. CLAY.

H.R. 5130: Mr. ETHERIDGE.

H.R. 5132: Mr. SERRANO and Mr. WEINER.

H.R. 5135: Mr. GILCHREST, Mrs. CHRISTENSEN, Mr. CARDOZA, and Mr. SCOTT of Georgia.

H.R. 5144: Mr. STRICKLAND, Ms. MAJETTE, Mr. BACHUS, and Mr. PALLONE.

H.R. 5147: Mr. OSE, Mrs. CAPPS, Ms. ESHOO, Ms. MILLENDER-MCDONALD, Mr. FARR, Mr. SCHIFF, Mr. BERMAN, Mr. ROHRABACHER, Mr. POMBO, Mr. CALVERT, Mr. BACA, Mr. FILNER, Mr. DOOLITTLE, Mrs. NAPOLITANO, Ms. LOFGREN, Mrs. TAUSCHER, Mr. SHERMAN, Ms. ROYBAL-ALLARD, Mr. HUNTER, Ms. WATERS, Mrs. BONO, Mr. MCKEON, Ms. SOLIS, Mr. RADANOVICH, Ms. PELOSI, Mr. HONDA, Mr. BECERRA, Ms. LEE, Mr. GARY G. MILLER of California, Mr. MATSUI, Mrs. DAVIS of California, Mr. CUNNINGHAM, Mr. NUNES, Ms. WOOLSEY, Mr. STARK, Mr. ISSA, Ms. HARMAN, Mr. THOMPSON of California, Mr. COX, Mr. ROYCE, Mr. DREIER, Mr. GEORGE MILLER of California, Ms. LORETTA SANCHEZ of California, Mr. CARDOZA, Mr. DOOLEY of California, Mr. HERGER, Mr. GALLEGLY, and Mr. THOMAS.

H.R. 5150: Mr. SIMMONS, Mr. HOEFFEL, Mrs. MCCARTHY of New York, Mr. CASE, Mr. MOORE, Mr. CASTLE, Ms. JACKSON-LEE of Texas, Mr. OWENS, Mr. ANDREWS, and Mr. MARKEY.

H.J. Res. 102: Mr. ABERCROMBIE, Mr. CASE, and Mr. MCCOTTER.

H.J. Res. 106: Mr. ADERHOLT, Mr. ALEXANDER, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BILIRAKIS, Mr. BLUNT, Mr. BRADY of Texas, Mr. BURNS, Mr. BURTON of Indiana, Mr. CARTER, Mrs. CUBIN, Mr. DAVIS of Tennessee, Mr. DEMINT, Mr. EVERETT, Mr. FORBES, Mr. GARRETT of New Jersey, Mr. GOODE, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. ISTOOK, Mr. KING of Iowa, Mr. MANZULLO, Mr. NEUGEBAUER, Mr. NUSSLE, Mr. OXLEY, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. SESSIONS, Mr. SHUSTER, Mr. SMITH of Texas, Mr. STEARNS, Mr. SULLIVAN, Mr. TAYLOR of Mississippi, Mr. TOOMEY, Mr. VITTER, Mr. WELDON of Florida, Mr. WICKER, Mr. AKIN, Mr. BALLENGER, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mrs. BLACKBURN, Mr. BOOZMAN, Mr. BROWN of South Carolina, Mr. BURGESS, Mr. CALVERT, Mr. CHOCOLA, Mr. CRANE, Mr. FEENEY, Mr. FRANKS of Arizona, Mr. GINGREY, Mr. HAYES, Mr. HEFLEY, Mr. HOEKSTRA, Mr. HUNTER, Mr. JONES of North Carolina, Mr. KENNEDY of Minnesota, Mr. KINGSTON, Mr. MARSHALL, Mr. GARY G. MILLER of California, Mrs. MYRICK, Mr. OSBORNE, Mr. RADANOVICH, Mr. ROGERS of Alabama, Mr. RYUN of Kansas, Mr. SCHROCK, Mr. SHADEGG, Mr. SOUDER, Mr. TANCREDO, Mr. TIAHRT, Mr. WHITFIELD, Mr. WILSON of South Carolina, Mr. DELAY, Mr. BISHOP of Georgia, and Mr. MCKEON.

H. Con. Res. 137: Mr. ETHERIDGE.

H. Con. Res. 461: Mr. LEWIS of California, Mr. MCCOTTER, and Mr. SCOTT of Georgia.

H. Con. Res. 496: Mr. WEXLER, Mr. ETHERIDGE, Mr. CROWLEY, Ms. CORRINE BROWN of Florida, and Mr. RAHALL.

H. Res. 570: Mr. WEXLER and Ms. ROS-LEHTINEN.

H. Res. 737: Ms. LEE, Mr. MCCOTTER, Mr. SNYDER, and Mr. WEXLER.

H. Res. 758: Mr. DELAHUNT and Mr. OLVER.

H. Res. 759: Mr. CALVERT.

H. Res. 782: Mrs. NAPOLITANO, Ms. JACKSON-LEE of Texas, Mr. PAYNE, Mr. BERMAN, Mr. KIND, Mr. SNYDER, Mr. EMANUEL, Ms. LEE, Ms. MCCARTHY of Missouri, Mr. LANTOS, Mr. NADLER, Mr. THOMPSON of California, Mr. OLVER, Mr. ENGEL, Mr. RYAN of Ohio, Mr. INSLEE, Mr. GRIJALVA, Ms. MILLENDER-MCDONALD, and Mr. PALLONE.

H. Res. 784: Mr. MCCOTTER.

H. Res. 799: Mr. SHIMKUS and Mr. SNYDER.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, SEPTEMBER 28, 2004 No. 119

Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

King of our lives, in sunshine or in shadows, we belong to You. You speak to us in both our moments of joy and sadness. We hear Your whispers through our pain. You prepare the earth for harvest and Your rivers never run dry.

In an uncertain world, we can turn to You for security. Thank You for forgiving us and for chasing away our gloom. You confuse those who seek to harm us, and You shield us with Your amazing grace and love.

Continue to guide and bless our Senators. Give them a peace more profound than anything the world can offer. Use them to bless our Nation and world. Keep them from temptation and deliver them from evil, for the kingdom, the power, and the glory belong to You. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will begin a period of morning business for up to 60 minutes. The majority will control the first half of that time and the minority will control the remaining second half. Following the 1 hour of morning business, the Senate will resume the pending intelligence reform legislation.

I do once again congratulate the chairman and ranking member, Senators COLLINS and LIEBERMAN, for their opening remarks yesterday. I am pleased we are now underway on this historic bill. We had a good start yesterday. We had a number of Members participating in the debate yesterday. Three amendments were offered, and they are now pending.

It would be my hope we could continue to make progress on the bill over the course of today, continue the good progress from yesterday and dispose of a number of amendments in addition to the ones that have been offered. Thus, we can expect votes over the course of the day on the intelligence reform amendments.

As is usual on a Tuesday, we will be breaking from 12:30 to 2:15 for the weekly policy luncheons. Again, as I mentioned yesterday, as we all know, we have scheduling challenges over the course of the week during the nights, which in many ways is good because it means we absolutely must focus, beginning right up front in the morning, and work through the day to process the bill, to process amendments, and to, of course, vote.

Again, I think every evening this week there are major commitments by both caucuses and the caucuses working together. Thus, we really absolutely must continue to work aggressively over the course of the day. There are a lot of people with a whole range of amendments to offer. We have had a long time for people to both now look at the bill but also, since late July, to have Senators and their staffs address the important issues and the recommendations which were made public in late July by the 9/11 Commission and since that time through a lot of hearings during August in the Governmental Affairs Committee that had a superb markup where a number of amendments were offered, debated, and adopted.

It gave the Senators on that committee the opportunity to highlight the important issues, to dispose of a number of them, but also, I believe, to make it so on the floor, when we address amendments that are similar to and in some cases maybe even the same amendments, we can deal with those in very expeditious ways since so much groundwork has been laid.

I am going to encourage, with the leadership on both sides of the aisle, the managers to gather these amendments just as soon as possible. All 100 Senators need to recognize that we have very few days, really just a few more than a handful of days, before we depart on October 8. Although we have dealt with many of these issues over the last several days and weeks, it is critical that we see the amendments so we can plan out the next several days on the bill. I have encouraged all of our colleagues to bring those amendments to the managers today, this morning.

With that, I will close my remarks and turn to the Democratic leader either for general comments or comments on the course of the week.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

INTELLIGENCE REFORM AND SCHEDULE

Mr. DASCHLE. Mr. President, I confirm the schedule as Senator FRIST has laid it out. The majority leader has been very clear about the intent that we both have to try to finish this work as quickly yet as thoroughly as we can. I would hope that we could work on a finite list. I would hope that we could reach time agreements on amendments. This is a piece of legislation

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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that should be familiar to all Senators. It has been out there. The committee has done very good and deliberative work on both sides. It has been one of the better demonstrations of the cooperation that we used to take for granted around here. I would hope that we could continue to show that same level of cooperation as we work through this bill.

I reiterate my strong support for what the majority leader has noted. He may have said this, and I just didn't catch it, but I know we have to take up some expiring legislation this week. We have a CR. We have a transportation bill. We have TANF. All of that has to be addressed this week as well. It is my hope that we can get agreements on those and not devote a good deal of time on the Senate floor to those and keep our focus first on 9/11 and then other agreements we could get on appropriations bills. We will work throughout the day to clarify the schedule with regard to those bills.

ENSURING A STRONG FARM CREDIT SYSTEM

Mr. DASCHLE. Mr. President, the Farm Credit System is a nationwide network of borrower-owned financial institutions consisting of four farm-credit banks, one agricultural-credit bank, and nearly 100 locally owned farm-credit associations.

These institutions were created as a result of the 1916 Farm Credit Act, whose fundamental purpose was to establish a network of government-sponsored enterprises that would provide America's farmers and ranchers with a reliable source of credit at fair and competitive interest rates.

Over the years, the Farm Credit System has provided critical credit and related services to farmers, ranchers, rural homeowners, farm-related businesses, and cooperatives, including rural utilities.

In fact, the Farm Credit System provides over $90 billion in loans to more than a half-a-million producers, agribusiness, and agricultural cooperatives. Overall, more than 25 percent of the credit needs of American agriculture are met by these important farm credit institutions.

These institutions have the unique attribute of being organized as cooperative businesses, each owned by its member-borrower stockholders, who have the right to participate in director elections and vote on issues impacting business operations.

One of the largest farm-credit institutions serving South Dakota is Farm Credit Services of America, or FCSA. FCSA also provides services in Iowa, Nebraska, and Wyoming, and it holds nearly $8 billion in assets, which is about 8 percent of the entire Farm Credit System portfolio.

On July 30, the board of FCSA approved an agreement to be acquired by the Rabobank Group, a Dutch banking giant and international farm lender.

The agreement is subject to approval by the regulatory agency which oversees these institutions—the Farm Credit Administration or FCA. It is also subject to stockholder approval and the expiration or termination of antitrust waiting periods.

Under the agreement, FCSA would become a wholly-owned subsidiary of Rabobank and would seek to exit the Farm Credit System under the termination provisions of the FCA's regulations.

FCSA has over 51,000 farmer and rancher customers—thousands of which are in my State of South Dakota.

Having spent a great deal of time in South Dakota over the past few months, I can say without any doubt that this proposed sale of one of our leading Farm Credit System institutions to a foreign bank has created a whirlwind of confusion and uncertainty.

While the tentative deal would pay producer-members $600 million in patronage, FCSA would also have to pay the Federal Government an $800 million ''exit fee,'' which is required should a member-institution pull out of the system.

The $800 million would go to the system's insurance fund. If the agreement is approved, FCSA would no longer exist.

At the same time, another banking interest—AgStar, which is also part of the Farm Credit System, and which operates out of Minnesota—has also sought to enter into a merger with FCSA.

Under AgStar's proposal, the new, merged AgStar would pay producers-owners $650 million in patronage—a full $50 million more than the Rabobank offer.

Plus, AgStar would not have to pay the $800 million termination fee that the Rabobank deal would require.

Finally, AgStar would make a commitment to provide future patronage payments to farmers and rancher-owners.

Looking solely at these figures, the Babobank offer appears questionable. But a decision like this should not be taken lightly, and more time is needed to fully analyze all the facts and determine what would be in the best interest of the producer-owners of FCSA, and in the best interest of the overall Farm Credit System.

Senator JOHNSON and I have sought to ensure that public hearings on these matters be held by both the FCA and the appropriate committees in Congress.

The FCA has said that they will hold at least one meeting or hearing. In addition, the first of what I hope could be several congressional hearings will be held by a House Agriculture Subcommittee tomorrow.

Unfortunately, the current time line under which the Farm Credit Administration must operate would require a decision within 60 days of FCSA's submission of a termination notice—a notice which could be filed as early as this week.

If the FCA approves the sale, a final vote by the FCSA shareholders could theoretically come before the end of the year, when Congress will likely be out of session.

It would be extremely difficult for the FCA to hold the public meetings or hearings that many of us think are needed, and make a thoughtful decision about the termination, within the initial 60-day time frame.

That is why, today, Senator JOHNSON and I are introducing legislation to ensure that when a Farm Credit System institution seeks to leave the system and terminate its status, the FCA will hold no less than one public meeting or hearing in each of the States in which that institution is chartered.

In this case there would be no less than one meeting or hearing in South Dakota, Iowa, Nebraska and Wyoming.

The bill would also require the FCA to wait at least six months before making a decision on the termination request by the institution—in this case, FCSA.

At best, the proposed sale of FCSA to Rabobank raises more questions than answers.

Farmers and ranchers in South Dakota and in the other impacted States fear they will have to vote on a deal before studying it and having all the appropriate information they need.

And the Farm Credit Administration, which is not a large agency, is at risk of being overburdened by an unrealistic time line.

A decision to leave the system is really monumental in the world of rural credit, and it could have a huge impact on rural America.

The Farm Credit System has served our Nation's rural communities exceedingly well for nearly 90 years.

Before any action is taken that may jeopardize that impressive record, we need to ensure that farmers, ranchers, and rural residents, as well as members of the FCA, have the time they need to analyze this profoundly important decision and reach the right conclusion.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee.

The PRESIDING OFFICER. The majority leader is recognized.

INTELLIGENCE REFORM

Mr. FRIST. Mr. President, on leader time—and we will come right into morning business shortly—I want to continue on the intelligence reform bill that is underway and make a very brief statement. Just a few minutes ago, the Democratic leader and I urged our colleagues to come forward and submit their amendments. We just had further discussion with the assistant Democratic leader. Over the course of the day, we must see these amendments.

Today, we continue debate on a bill to overhaul the intelligence community of the United States Government. It is a huge undertaking. The reforms are the most comprehensive since the National Security Act of 1947. But nothing less than the security of the United States of America is at stake.

We have determined enemies who will use any means available to take the lives of as many Americans as possible. They cheered when the Twin Towers fell. They dream of even larger calamities.

They must be stopped. And that requires an intelligence system that finds them, before they harm us.

Under the leadership of Senator COLLINS and Senator LIEBERMAN, the Government Affairs Committee has produced a bill that is worthy of this task. It was passed unanimously out of committee.

It has received support from the White House.

And it is supported by the Senate leadership.

The Senate will examine this legislation in a comprehensive and deliberate manner. We will be focused and expeditious.

We have a unanimous consent agreement that restricts amendments ''to the subject matter of the bill or related to the 9/11 Commission recommendations.''

I urge Senators that if they have, or are considering, amendments that they inform or file them with the manager today.

I am confident we will come to agreement on this package in a timely manner. I know that it is ambitious, but my hope is that we can complete this bill by the end of this week. This would give us time to conference with the House.

Reforming the executive branch and the legislative branch is key to improving the security of the American people and our great Nation.

I am proud to say that we have worked in a bipartisan manner at every level, from individual Members, through committees, to leadership.

We have also worked closely with the administration, which has embraced the findings and recommendations of the 9/11 Commission.

The administration has taken additional measures to further improve our counter-terrorism and intelligence efforts. These efforts deserve our praise.

The committee has worked to produce a bill that addresses fundamental issues facing our intelligence community. It contains a number of key recommendations consistent with the 9/11 report.

First, and most critically, the legislation creates a national intelligence director with robust budgetary and personnel authority over the intelligence community.

As recommended by the 9/11 report, the NID will be the President's primary intelligence advisor. This official will be Senate-confirmed and separate from the CIA Director. The NID's primary mission is to break down stovepipes, and knit the intelligence agencies into an agile and effective network.

The NID will develop and present to the President the annual budget request for the National Intelligence Program. Critically, the national intelligence director will receive the appropriation for the program.

The NID also will have parallel authority over major acquisitions funded through the appropriations that the NID will control.

The NID will have the authority to transfer funds within the National Intelligence Program. He or she will have authority to set our intelligence priorities.

The director will set standards for security, personnel, and information technology across the intelligence community.

The director will also play an active role in selecting the heads of the key entities in the National Intelligence Program.

Critically, the legislation requires the NID to provide intelligence that is independent of political considerations. To this end, the legislation establishes an analytic review unit to provide an independent and objective evaluation of the quality of analysis of national intelligence.

The NID will chair a cabinet-level Joint Intelligence Community Council. The purpose of the council is to advise the NID on setting requirements, financial management, and establishing policies across the intelligence community.

The council will help ensure the implementation of a joint, unified national intelligence effort to protect national security.

In addition to creating the national intelligence director post, the committee bill also establishes the National Counter Terrorism Center. Currently, our intelligence agencies are not maximally integrated in their efforts against terrorism. The committee seeks to remedy that through the creation of the counterterrorism center. The center will have a directorate of intelligence—in essence, a national intelligence center to integrate intelligence capabilities against terrorism.

The National Counterterrorism Center will also have a directorate of planning to develop interagency counterterrorism plans, assign agencies' responsibilities, and monitor implementation.

The center's directorate of planning will concentrate on developing joint counterterrorism plans, meaning plans that involve more than one agency. Such planning will be at both the strategic level, such as ''winning hearts and minds'' in the Muslim world, and at an operational level, such as hunting for bin Laden.

In addition to these two major reforms—the national intelligence director and the counterterrorism center—the legislation also includes provisions to strengthen the FBI and transform the CIA's capabilities.

The legislation before us is comprehensive. It is ambitious. And it contains the reforms that are critical to strengthening the intelligence community and protecting our country.

I am confident that this overhaul of our intelligence community—the largest since 1947—and the pending overhaul of the Senate oversight of intelligence—the largest in three decades—will make our country safer and more secure. We have no higher responsibility to our fellow Americans than protecting the homeland. Our lives, our freedoms, our liberties are at stake.

We have made tremendous progress in the days since 9/11. We've taken a hard look at our intelligence system, what it did right, where it went wrong. Many dedicated men and women have spent countless hours examining the facts and finding ways to fix the system. I am confident that the United States Senate will do our part to defend the homeland and make America more secure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

WELFARE REFORM

Mr. SANTORUM. Mr. President, I will be offering a unanimous consent request to try to move forward on welfare reform and try to move this vitally important issue that affects millions of Americans out of the Senate and toward passage of an extension. Today, the House is going to pass an extension, and I hope we will also.

I think it is unfortunate that we are left in the position that we are not able to pass a welfare reform bill in the Senate, in spite of the fact that an amendment on the underlying bill passed $1.2 billion in new daycare spending. That has always been the mantra of those who oppose welfare reform and work requirements, that there wasn't enough money for daycare. Yet $1.2 billion was added to the welfare bill, and we had attempt after attempt to move that bill to conference. So far, we have not been able to do so. As a result, we are here for another extension.

We have had several extensions over the last 2 years. The problem with these extensions—let me make this point—is that the current welfare system was put into place in 1996. It had very tough work requirements. It had work requirements that were tied to

caseload reduction. What happened is we have had such a successful program over the last 8 years that almost all of the States have met their caseload reduction and therefore no longer have work requirements.

So what we are seeing is that gradually, slowly, a lot of these States that have reduced their caseload are falling back under work requirement—not requiring work and not requiring the transformative value that this new welfare system that was put into place in 1996 has given to millions of women and children in poverty over the last 8 years. If we just continue the 1996 bill, which was great in its time—it achieved what it wanted to achieve and needed to achieve. Now we need to ratchet it up to make sure the work requirement is maintained and that we are still moving people out of poverty into work. So this extension I am going to offer does not accomplish that. That is disappointing.

I hope to later on maybe offer an opportunity to go to conference, but for now, I want to offer a unanimous consent request to extend the current welfare bill for another 6 months and add two minor provisions that the Senator from Indiana, Mr. BAYH, and I have been working on now for quite some time in a bipartisan fashion.

The two provisions deal with fatherhood, money that was not provided in the 1996 Welfare Act to encourage responsible fatherhood. There is $100 million for that provision and also $200 million to do a whole variety of things to try to educate and encourage responsible marriage, if you will; responsible fatherhood, responsible marriage, encourage fathers and mothers who are having children outside of wedlock.

Let me give at least one example of how this money could be used. There was a study done at Princeton University which said that when a mother would apply for welfare with a child born out of wedlock, 80 percent of the mothers who applied for welfare in this study, done by a liberal professor from Princeton, said they were in a relationship with the father of the child. When the father of the child was asked, 80 percent said they were interested in marriage. So we have a mother and a father who in 80 percent of these cases that were studied said they were in a relationship at the time that welfare was applied for, which is certainly after the child's birth, and they were interested in marriage. Yet within a year's time, less than 10 percent of those couples were together.

The point here is that Government does nothing, other than attach the father's wages for child support, to encourage that relationship or help that relationship prosper. All we are interested in is getting the money out of the hide of the father, which is not necessarily what nurtures a relationship.

All we are suggesting is that if a mother and a father come in and say, yes, we are in a relationship, and, yes, we are interested in marriage at the time we are having this child, cannot the Government do something to help that situation? It is a very difficult time in these two young people's lives. They are going through a lot of stresses and strains. It is hard enough to have a child when you are married, much less when you are not married, and the difficulties associated with that. Could we pay for counseling? Could we pay for a faith-based organization to bring them in and help them get through these difficult times to nurture this relationship so the child of these two parents could have an opportunity to have a mother and a father in the home in a stable relationship?

If we look at the benefits of marriage, they are overwhelming. Social scientist after social scientist has come in to testify before the Finance Committee in a hearing earlier this year from the left and the right and they said: There is no argument here, marriage is beneficial for children.

It is beneficial for children because they have better school performance and there are fewer dropouts, fewer emotional and behavior problems, less substance abuse, less abuse and neglect, less criminal activity, fewer out-of-wedlock births. Everything we look at, marriage is a benefit to children. Why is the Government neutral on marriage? Why, if a couple is interested in marriage, can't we at least provide them some of the resources they need to build that relationship instead of just saying: Here is childcare dollars; if you want to get married, that is fine, we don't really care one way or the other; here are your childcare dollars and here are your whatever other dollars and that is all we care about. That is a short-term help for moms and children, but to have a stable, loving father and mother relationship is the best long-term help we can provide. But we do nothing. We are silent.

What we are proposing here is to try to do something to provide some resources through responsible fatherhood programs to—in this case, these programs are trying to bring in fathers who have not been involved in their children's lives—find mentoring programs and other programs funded through the nonprofit arena to help bring fathers back into the lives of their children. Children need moms and dads, and responsible mothers and responsible fathers are optimal. Senator BAYH has been a leader on this issue, along with Senator DOMENICI. I have worked also to try to get more responsible fathers back into the lives of their children.

Look at the statistics when it comes to fathers involved in children's lives: A child is two times more likely to abuse drugs if the father is not in the home, two times more likely to be abused if the father is not in the home, two times more likely to be involved in crime, three times more likely to fail in school, three times more likely to commit suicide, and five times more likely to be in poverty. That is what fatherlessness does to children.

This extension I am asking for is a straight extension, no other changes, simply two modifications: One, $100 million to help bring fathers back into the lives of these children to help improve some of these horrendous statistics we see here, and, two, to simply have some support where Government is no longer neutral, I would argue even against by enabling, if you will—I won't say survival because it is beyond that—but enabling women and children to go forward without fathers. You can make an argument it is beyond neutral, that we are empowering through Government money mothers not to need fathers as much as they did before all these programs were out here.

What we are saying is let's at least, if they express an interest in marriage, see if we can help them through this process. It is a straight extension, plus $100 million for fatherhood and $200 million for marriage programs.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 714, S. 2830; that the bill be read a third time and passed and 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. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, we on this side note the intentions of the Senator from Pennsylvania. The two programs he talks about extending certainly have merit. I think if we had the opportunity to discuss them, offer amendments, and debate them, we could complete that very quickly.

The problem is that during the consideration of the welfare bill in March, the Senate passed a bipartisan amendment by a vote of 78 to 20 to put in $6 billion in childcare funding. It is my understanding the amendment my friend from Pennsylvania offers does not include that.

My question is, why should we create two new programs untested—but they appear to have some merit—without extending additional resources for childcare, something we know the Senate agrees to and we know parents need to succeed in the workplace?

I ask my friend, will the Senator modify his request to include the Snowe-Dodd amendment? If this were done, I think we could move forward on this very quickly.

Mr. SANTORUM. Mr. President, I would be willing to offer another unanimous consent request to take care of the very issue the Senator from Nevada has mentioned, which is I will offer another unanimous consent request to simply go to conference on the bill that is still pending in the Senate that has the $1.2 billion in the Dodd-Snowe amendment and send it to conference, and let's get this bill done.

So I am willing to go to conference on that bill. In fact, if we can first dispense with this first unanimous consent request, I would be happy to offer a second one.

The PRESIDING OFFICER. Is there objection to the first unanimous consent request?

Mr. REID. To the second?

The PRESIDING OFFICER. To the first.

Mr. REID. To the first? Yes.

The PRESIDING OFFICER. An objection is heard.

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 305, H.R. 4; the committee substitute be agreed to; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table. I further ask consent that the Senate insist upon its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

This is the welfare bill the Senator from Nevada described, the bill with $1.2 billion in new child care funding per year in mandatory spending. We have had this thing bound up in the Senate. The Senator asked would I be willing to amend my request. I have, in essence, done that.

Now we can send this bill to conference. We can start working on it with the House and maybe we can get a new welfare bill instead of having an extension, which I would agree with the Senator from Nevada is not adequate because, in the eyes of the Senator, it does not provide enough daycare money. I would say it is not adequate because it does not require work anymore. Most States in the country now do not have to have work requirements because of the way the 1996 law was written.

I agree with the Senator, this is the better solution. So I ask that unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I did not quite get what the unanimous consent was.

Mr. SANTORUM. Mr. President, I would be happy to read it again, but in essence it is to take the bill on the calendar now, which has the Snowe-Dodd amendment in it.

Mr. REID. H.R. 4?

Mr. SANTORUM. H.R. 4. And send it to conference and ask for a conference with the House.

Mr. REID. Mr. President, reserving the right to object, we have the timeline on this bill so it is unnecessary to go through it. I ask unanimous consent that it be printed in the RECORD as to what has happened.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BILL SUMMARY AND STATUS

H.R. 4—WELFARE EXTENSION

2/13/2003, 2:35 p.m.: H. Amdt. 2—On agreeing to the Kucinich amendment (A001) Failed by recorded vote: 124–300 (Roll No. 27).

2/13/2003, 2:38 p.m.: H. Amdt. 3—Amendment (A002) in the nature of a substitute offered by Mr. Cardin (consideration: CF H530—546, H547–550; text: CR H530–542. Amendment in the nature of a substitute sought to expand state flexibility to provide training and education, increase to 70 percent the number that are required to be engaged in work related activities, provide states with an employment credit, maintain the current participation requirement, maintain the time limit on Temporary Assistance for Needy Families (TANF) benefits, increase child care funding by $11 billion over the next 5 years, and remove barriers to serving legal immigrants.

2/13/2003, 3:49 p.m.: H. Amdt. 3—On agreeing to the Cardin amendment (A002) Failed by recorded vote: 197–225 (Roll No. 28).

2/13/2003, 3:50 p.m.: Mr. Cardin moved to recommit with instructions to Ways and Means (consideration: CR H550–552; text: CR H550).

2/13/2003, 4:15 p.m.: On motion to recommit with instructions Failed by the Yeas and Nays: 197–221 (Roll No. 29).

2/13/2003, 4:21 p.m.: On passage Passed by the Yeas and Nays: 230–192 (Roll No. 30) (text: CR H499–513).

2/13/2003, 4:21 p.m.: Motion to reconsider laid on the table Agreed to without objection.

2/13/2003: Received in the Senate and Read twice and referred to the Committee on Finance.

9/10/2003: Committee on Finance. Ordered to be reported with an amendment in the nature of a substitute favorably (Markup report: National Journal, CQ).

10/3/2003: Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute. With written report No. 108–162. Minority views filed.

10/3/2003: Placed on Senate Legislative Calendar under General Orders. Calendar No. 305.

3/29/2004: Measure laid before Senate (consideration: CR S3219–3254, S3256–3278; text of measure as reported in Senate: CR S3219–3254).

3/29/2004: S. Amdt. 2937—Amendment SA 2937 proposed by Senator Grassley for Senator Snowe (consideration: CR S3260, S3273–3274). To provide additional funding for child care.

3/30/2004: Considered by Senate (consideration: CR S3324–3345).

3/30/2004: S. Amdt. 2937—Considered by Senate (consideration: SR S3324, S3334–3335).

3/30/2004: S. Amdt. 2937—Amendment SA 2937 agreed to in Senate by Yea-Nay Vote. 78–20. Record Vote No. 64.

3/30/2004: S. Amdt. 2945—Amendment SA 2945 proposed by Senator Boxer (consideration: CR S3336–3345; text: CR S3336). To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

3/30/2004: Cloture motion on the committee substitute amendment presented in Senate (consideration: CR S3359; text: CR S3359).

3/31/2004: Considered by Senate (consideration: CR S3407–3448).

3/31/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3407).

4/1/2004: Considered by Senate (consideration: CR S3529–3538, S3544–3557).

4/1/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3529).

4/1/2004: Cloture motion on the committee substitute amendment not invoked in Senate by Yea-Nay Vote. 51–47. Record Vote No. 65 (consideration: CR S3538).

Mr. REID. Mr. President, at the time the debate was going forward on this most important bill, an amendment was offered by the Senator from California dealing with minimum wage. Immediately, cloture was filed. Cloture was not invoked.

We would have no problem going forward with the bill prior to going to conference, assuming the Senate seeks to resume H.R. 4 in the status it was when it was pulled from the floor which is, of course, the pendency of the Boxer amendment. So I ask my friend, the distinguished Senator from Pennsylvania, to modify his unanimous consent to allow us to proceed with H.R. 4 on the floor with the Boxer amendment pending.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say to the Senator from Nevada that on March 30, I did that. I actually proposed the unanimous consent to allow a vote in relation to the Boxer amendment, with a substitute offered by Senator MCCONNELL on the issue of minimum wage, which I know was an important issue at the time of this discussion. I offered that unanimous consent so we could move forward and dispose of those two amendments and then move the bill to conference, and that was objected to.

There was objection to the extension with some minor modifications to help marriage and fatherhood. There was an objection to a unanimous consent that puts $1.2 billion into new child care funding to go to conference. We have seen objections—I suspect this will be objected to again, if I would offer it, which is an opportunity to have a vote on minimum wage up or down, and a vote on our minimum wage proposal up or down, and then send it to conference.

I do not know how many times one has to say no to get the idea that maybe there is something other than trying to get votes on issues that are of concern to the minority, that there might be some underlying concern about having an extension of the welfare bill or a modification to it, and I think that is probably where we are.

It is unfortunate because it is important to reestablish work requirements. It is important to give people the best opportunity to succeed in America. We have seen, for example, in this country, as a result of welfare reform which passed in 1996, the lowest rate of black poverty in the history of the country, lowest ever as a result of requiring work and changing the dynamic in low-income families in America. So we have shown success.

It is unfortunate we are not going to be able to continue that success as a result of the blocking maneuvers on the side of the Democrats.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent?

Mr. REID. I have a modification of the request pending.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. SANTORUM. Mr. President, I object to the modification.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I object to the underlying request and ask the Senator to allow a clean extension for 6 months of this most important legislation.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I will object for the moment. I understand the House is working on an extension right now. We may agree later today. Certainly, we need to do an extension and I will check with the leader on that.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, prior to my distinguished friend, the Senator from Kentucky, taking the floor, I inquire as to how much time is remaining with the majority?

The PRESIDING OFFICER. There is 13 minutes.

Mr. REID. Mr. President, if I could on behalf of Senator DASCHLE yield 15 minutes when our time comes to Senator KENNEDY, 5 minutes to Senator DURBIN, and 5 minutes to Senator FEINGOLD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky.

FOUR-PART PRESIDENTIAL PLAN FOR IRAQ

Mr. MCCONNELL. Mr. President, the Presidential campaign is heating up and after considerable flipping and flopping, Senator KERRY claims to have finally presented the American people with something resembling a firm position on Iraq. It is a four-part plan, and frankly it resembles the plan President Bush has been pursuing for the last year and a half. I call it Senator KERRY's ''too little too late to gain credibility'' plan.

Although Kerry has characterized the administration's policy as a failure, perhaps he simply believes it would be a success were he the one implementing it. I wonder. Let us take a look.

The first part of Senator KERRY's plan is to ''internationalize because others must share the burden.'' Let's leave aside the inconvenient fact that Senator KERRY has denigrated the 19 countries that participated in the liberation of Iraq or the 34 helping to secure and rebuild that country today as a ''trumped up and so-called coalition of the bribed, the coerced, the bought and the extorted.''

This from the man who is so confident of his diplomatic skills.

Senator KERRY fails to understand that no amount of diplomacy will convince the countries whose interests compete with ours, or the nations that share our interests but lack our will or capacity to act, to join our efforts to bring security and freedom to the Middle East and the terrorists to their knees.

Senator KERRY wants to bring U.S. troops home within the first 6 months of his administration. So his plan is not to share the burden; it is to pass the buck. But to whom would he pass the buck?

The Financial Times reported yesterday that Germany and France will not send troops to Iraq even if JOHN KERRY is elected. Indeed, how could Senator KERRY convince any nation to send troops to a conflict he himself has called ''the wrong war at the wrong time''?

It would be nice to see the United Nations pulling its own weight once in a while, but one would have to be living in a fantasy world to believe that it will do so. If it continues to allow tyrannies like Sudan to chair the Human Rights Commission, the U.N. will follow the League of Nations into permanent and deserved irrelevance.

The second part of Kerry's plan is to ''train Iraqis because they must be responsible for their own security.'' Adding further confusion to his inconsistent claims that, first, the U.S. needs more troops in Iraq, that he would bring them home within the first 6 months of his administration, and that this would make America stronger at home and more respected in the world, Senator KERRY now claims the U.S. is not doing enough to train Iraqis to provide for their own security.

Well, about a year ago I traveled to Iraq and I stood with GEN David Petraeus in Mosul where I witnessed the graduation ceremony of an Iraqi security force, a unit trained by the 101st Airborne. I recall being impressed that so many Iraqis were willing to risk their lives to help secure their newly free country.

Petraeus completed his tour as the commanding general of the 101st Airborne in February of this year. After making sure his soldiers returned safely to Fort Campbell, KY, Dave Petraeus received his third star and went back to Baghdad, where he assumed responsibility for training Iraq's army and security forces. He is the right man for the job and, for me, his views carry enormous weight. He had an op-ed in the Washington Post this past Sunday that I would commend to my colleagues, in particular the junior Senator from Massachusetts. In it, he notes:

> Approximately 164,000 Iraqi police and soldiers . . . and an additional 74,000 facility protection forces are performing a wide variety of security missions.
>
> Equipment is being delivered. Training is on track and increasing in capacity. . . . Most important, Iraqi security forces are in the fight, so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country.

But he cautions that:

> Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations. . . . Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join the Iraqi security forces.

This is David Petraeus.

So it would seem the training of Iraqis is well underway.

The third part of KERRY's plan is to ''move forward with reconstruction, because that's an important way to stop the spread of terror.''

I agree. When I spoke with General Petraeus in Iraq last year, he told me that: ''Money is ammunition,'' and that it was critical to get the Iraqi economy working again in order to provide jobs for Iraqis who may otherwise turn to violence. I returned to Washington and lobbied my colleagues to vote for the $87 billion to supply our troops and for Iraqi reconstruction, because I had seen firsthand how important it was to get Iraq's economy back on track.

It is a shame Senator KERRY was not listening to General Petraeus when he voted against this $87 billion for our troops. In fact, Senator KERRY still does not seem to get it, because he complained just recently that too much money was being spent on reconstruction in Iraq and too little was being spent in America.

We won the debate on the $87 billion for our troops and reconstruction in spite of Senator KERRY's—and Senator EDWARDS'—opposition. And although I am heartened Senator KERRY has come to appreciate the importance of this aid, I hope he understands that Presidents, unlike Senators, do not often get second chances to make crucial decisions.

The fourth and final plan in Senator KERRY's plan is to: ''help the Iraqis achieve a viable government, because it is up to them to run their own country.''

You could call this the ''Do as I say, not as I do'' plan, because Senator KERRY may have undermined the credibility of Iraq's Prime Minister—who traveled to America to consult with President Bush, to deliver a speech to a Joint Session of Congress, and rebut the criticism of those who believe Iraq and the world are not better off with Saddam Hussein in an Iraqi jail.

KERRY's wrong-headed criticism of Ayad Allawi—who risks his life every day to bring peace and democracy to Iraq—was as repugnant as it was undiplomatic. If a President KERRY were to treat foreign leaders as disgracefully as he treated Prime Minister Allawi, he would find it difficult to live up his campaign promise of being ''more respected in the world.''

Yet, KERRY has already done diplomatic damage, in my view. By maligning the judgment of America's most important new ally in the Middle East, Senator KERRY has fired a political shot that will be heard more loudly in the streets of Baghdad or Tehran than in Boston or Orlando. His comments were intended to undercut President

Bush's standing in the eyes of American voters, but they may have the consequence of undermining Prime Minister Allawi's position in Iraq.

If a potential President of the United States doesn't take the Iraqi Prime Minister seriously, why should the terrorists?

Writing about Iraq's transition from totalitarianism to democracy, General Petraeus concluded his op-ed with this line: It will not be easy, but few worthwhile things are.

Bringing democracy and stability to the heart of the Middle East is more than worthwhile. It is a critical component of our war against terrorists. For if we fail to offer an alternative to the corrupt theocracies and dictatorships of that region, we will forever be fighting the war against terrorism defensively, making it much more likely that we will be fighting terrorists in Chicago and New York than in the cities where they live and train.

We have an opportunity to fight side by side with our new Iraqi allies against the terrorists who share goals and tactics with those who hijacked planes on 9/11, who murdered hundreds of school children in Russia, and who bombed innocent civilians in Bali, Istanbul, Riyadh, Madrid, Jerusalem, and elsewhere. And if we fail to win this fight it will not be just Prime Minister Allawi's credibility that suffers, it will be our own.

Mr. President, I ask that General Petraeus's op-ed 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, Sept. 26, 2004]

BATTLING FOR IRAQ

(By David H. Petraeus)

BAGHDAD.—Helping organize, train and equip nearly a quarter-million of Iraq's security forces is a daunting task. Doing so in the middle of a tough insurgency increases the challenge enormously, making the mission akin to repairing an aircraft while in flight—and while being shot at. Now, however, 18 months after entering Iraq, I see tangible progress. Iraqi security elements are being rebuilt from the ground up.

The institutions that oversee them are being reestablished from the top down. And Iraqi leaders are stepping forward, leading their country and their security forces courageously in the face of an enemy that has shown a willingness to do anything to disrupt the establishment of the new Iraq.

In recent months, I have observed thousands of Iraqis in training and then watched as they have conducted numerous operations. Although there have been reverses—not to mention horrific terrorist attacks—there has been progress in the effort to enable Iraqis to shoulder more of the load for their own security, something they are keen to do. The future undoubtedly will be full of difficulties, especially in places such as Fallujah. We must expect setbacks and recognize that not every soldier or policeman we help train will be equal to the challenges ahead.

Nonetheless, there are reasons for optimism. Today approximately 164,000 Iraqi police and soldiers (of which about 100,000 are trained and equipped) and an additional 74,000 facility protection forces are performing a wide variety of security missions. Equipment is being delivered. Training is on track and increasing in capacity. Infrastructure is being repaired. Command and control structures and institutions are being reestablished.

Most important, Iraqi security forces are in the fight—so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country. Since Jan. 1 more than 700 Iraqi security force members have been killed, and hundreds of Iraqis seeking to volunteer for the police and military have been killed as well.

Six battalions of the Iraqi regular army and the Iraqi Intervention Force are now conducting operations. Two of these battalions, along with the Iraqi commando battalion, the counterterrorist force, two Iraqi National Guard battalions and thousands of policemen recently contributed to successful operations in Najaf. Their readiness to enter and clear the Imam Ali shrine was undoubtedly a key factor in enabling Grand Ayatollah Ali Sistani to persuade members of the Mahdi militia to lay down their arms and leave the shrine.

In another highly successful operation several days ago, the Iraqi counterterrorist force conducted early morning raids in Najaf that resulted in the capture of several senior lieutenants and 40 other members of that militia, and the seizure of enough weapons to fill nearly four 7½-ton dump trucks.

Within the next 60 days, six more regular army and six additional Intervention Force battalions will become operational. Nine more regular army battalions will complete training in January, in time to help with security missions during the Iraqi elections at the end of that month.

Iraqi National Guard battalions have also been active in recent months. Some 40 of the 45 existing battalions—generally all except those in the Fallujah-Ramadi area—are conducting operations on a daily basis, most alongside coalition forces, but many independently. Progress has also been made in police training. In the past week alone, some 1,100 graduated from the basic policing course and five specialty courses. By early spring, nine academies in Iraq and one in Jordan will be graduating a total of 5,000 police each month from the eight-week course, which stresses patrolling and investigative skills, substantive and procedural legal knowledge, and proper use of force and weaponry, as well as pride in the profession and adherence to the police code of conduct.

Iraq's borders are long, stretching more than 2,200 miles. Reducing the flow of extremists and their resources across the borders is critical to success in the counterinsurgency. As a result, with support from the Department of Homeland Security, specialized training for Iraq's border enforcement elements began earlier this month in Jordan.

Regional academies in Iraq have begun training as well, and more will come online soon. In the months ahead, the 16,000-strong border force will expand to 24,000 and then 32,000. In addition, these forces will be provided with modern technology, including vehicle X-ray machines, explosive-detection devices and ground sensors.

Outfitting hundreds of thousands of new Iraqi security forces is difficult and complex, and many of the units are not yet fully equipped. But equipment has begun flowing. Since July 1, for example, more than 39,000 weapons and 22 million rounds of ammunition have been delivered to Iraqi forces, in addition to 42,000 sets of body armor, 4,400 vehicles, 16,000 radios and more than 235,000 uniforms.

Considerable progress is also being made in the reconstruction and refurbishing of infrastructure for Iraq's security forces. Some $1 billion in construction to support this effort has been completed or is underway, and five Iraqi bases are already occupied by entire infantry brigades.

Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations, even though the vast majority of the population deplores such attacks. Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join Iraqi security forces. In the past couple of months, more than 7,500 Iraqi men have signed up for the army and are preparing to report for basic training to fill out the final nine battalions of the Iraqi regular army. Some 3,500 new police recruits just reported for training in various locations. And two days after the recent bombing on a street outside a police recruiting location in Baghdad, hundreds of Iraqis were once again lined up inside the force protection walls at another location—where they were greeted by interim Prime Minister Ayad Allawi.

I meet with Iraqi security force leaders every day. Though some have given in to acts of intimidation, many are displaying courage and resilience in the face of repeated threats and attacks on them, their families and their comrades. I have seen their determination and their desire to assume the full burden of security tasks for Iraq.

There will be more tough times, frustration and disappointment along the way. It is likely that insurgent attacks will escalate as Iraq's elections approach. Iraq's security forces are, however, developing steadily and they are in the fight. Momentum has gathered in recent months. With strong Iraqi leaders out front and with continued coalition—and now NATO—support, this trend will continue. It will not be easy, but few worthwhile things are.

Mr. REID. What is the time left for the majority?

The PRESIDING OFFICER. There is 3 minutes. The Senator from Mississippi.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended by 5 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I have no objection at all. I know Senator KENNEDY has been waiting a long time, but that is fine. Five minutes won't hurt him. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. REID. Mr. President, if I could, I will yield an additional 5 minutes to Senator DURBIN and an additional 5 minutes to Senator KENNEDY. That uses our entire 35 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

SENATOR KERRY AND AMERICA'S CHALLENGES

Mr. LOTT. Mr. President, as we look at the situation in America and in the world today, we face serious challenges. Obviously, the war on terrorism is one of the most serious challenges we have had in many decades, one that is different because there are no specific battles that are won or lost. There may not be a moment when we say it is over. Because we are dealing with a moving, shadowy element that uses the most dastardly types of attacks on individuals, innocent men, women, and children.

We have seen the situation in Florida, where the people there have been hit repeatedly by hurricanes and disasters. I guess you could say in many respects these are times that try men and women's souls.

We are under attack in a lot of ways. But, also, these are the times that require a certain trumpet. We cannot have uncertainty in terms of leadership. We cannot have an uncertain trumpet. We have to have direction, strong leadership, and courage to take a stand and follow it through. That is why I am very much worried about what I see in Senator KERRY and the positions he has taken, first on one side and then the other.

I was greatly distressed last week when we had the Prime Minister of Iraq here. He is a man who is showing strength, leadership, and great courage because his life is on the line every day with repeated assassination attempts directed at him. He came here. He said: Thank you, America. He said: We are going to have elections. We are going to have peace and freedom and democracy. We chose justice and the rule of law rather than chaos and anarchy. He did a magnificent job. I was inspired by what he is doing and by his speech.

Yet Senator KERRY attacked his speech before he even left town. Where are the basic courtesies that we have in the past extended to leaders of other countries?

President Bush, on the other hand, has shown strength, leadership, and courage. He is dealing with the issues of security. People see in him and hear in his voice a determination, a commitment, that will get us through this. But Senator KERRY has been flip-flopping back and forth on Iraq for not just the campaign but actually for years, going back to 2002 where he took one position and where now, in 2003 and 2004, he has taken a different position.

On September 20, 2004, he said that our most important task is to win the war on terrorism. On March 6, 2004, he balked at calling the war on terror an actual ''war.''

On September 20 he said Iraq was a ''diversion from'' the war on terror. Yet back in December of 2003 he said that Iraq is ''critical'' to the success of the war on terror.

In September of 2004 he said the evil of Saddam was enough to justify the war. Yet before that he agreed with the administration's goal of regime change. He also said that Saddam's ''breach of international values'' was a sufficient cause of war.

In 2004 he said Saddam's ''downfall . . . has left America less secure.'' Yet in December of 2003 he questioned the judgment of those claiming Saddam's capture doesn't help American security.

The list goes on and on. I ask unanimous consent this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLIP FLOP #1: ''MOST IMPORTANT TASK'' IS TO WIN ''WAR ON TERRORISM.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . the events of September 11 reminded every American of that obligation. That day brought to our shores the defining struggle of our times: the struggle between freedom and radical fundamentalism. And it made clear that our most important task is to fight . . . and to win . . . the war on terrorism.

''In His Words: John Kerry,'' The New York Times Website, www. nytimes. com, March 6, 2004, Kerry Balked at Calling War on Terror an Actual War:

The final victory in the war on terror depends on a victory in the war of ideas, much more than the war on the battlefield. And the war—not the war, I don't want to use that terminology. The engagement of economies, the economic transformation, the transformation to modernity of a whole bunch of countries that have been avoiding the future.

FLIP FLOP #2: IRAQ WAS ''DIVERSION FROM'' WAR ON TERROR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . Iraq was a profound diversion from that war and the battle against our greatest enemy, Osama bin Laden and the terrorists. Invading Iraq has created a crisis of historic proportions and, if we do not change course, there is the prospect of a war with no end in sight.

Fox News' ''Special Report,'' December 15, 2003, Kerry Said Iraq ''Is Critical'' To Success of War on Terror:

Iraq may not be the war on terror itself, but it is critical to the outcome of the war on terror. And therefore any advance in Iraq is an advance forward in that.

FLIP FLOP #3: EVIL OF SADDAM WAS NOT ENOUGH TO JUSTIFY WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Saddam Hussein was a brutal dictator who deserves his own special place in hell. But that was not, in itself, a reason to go to war.

Senator John Kerry, Speech to the 2002 DLC National Conversation, New York, NY, July 29, 2002, Kerry Originally Agreed With Removing Saddam Hussein:

I agree completely with this Administration's goal of a regime change in Iraq—Saddam Hussein is a renegade and outlaw who turned his back on the tough conditions of his surrender put in place by the United Nations in 1991.

MSNBC's ''Hardball,'' October 10, 2002, Kerry Cited Saddam's ''Breach of International Values'' as Cause for War.

I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by use of force if necessary.

FLIP FLOP #4: SADDAM'S ''DOWNFALL . . . HAS LEFT AMERICA LESS SECURE.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The satisfaction we take in his downfall does not hide this fact: we have traded a dictator for a chaos that has left America less secure.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #5: DECISION TO GO INTO IRAQ ''COLOSSAL'' FAILURE.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

''The President now admits to ''miscalculations'' in Iraq. That is one of the greatest understatements in recent American history. His were not the equivalent of accounting errors. They were colossal failures of judgment—and judgment is what we look for in a president. This is all the more stunning because we're not talking about 20/20 hindsight. Before the war, before he chose to go to war, bi partisan Congressional hearings . . . major outside studies . . . and even some in the administration itself . . . predicted virtually every problem we now face in Iraq.

CNN's ''Inside Politics,'' August 9, 2004, in Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted For Use Of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #6: ''IRAQ WAS NOT ''THREAT TO OUR SECURITY.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We now know that Iraq had no weapons of mass destruction and posed no imminent threat to our security.

Ronald Brownstein, ''On Iraq, Kerry Appears Either Torn or Shrewd,'' Los Angeles Times, January 31, 2003, Kerry believed that Iraq had weapons of mass destruction and was a threat:

Kerry said, ''If you don't believe . . . Saddam Hussein is a threat with nuclear weapons, then you shouldn't vote for me.''

CNN's ''Inside Politics,'' August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution.

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #7: IRAQ WAR TOOK ''ATTENTION AND RESOURCES'' AWAY FROM AFGHANISTAN.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The President's policy in Iraq took our attention and resources away from other, more serious threats to America. Threats like . . . the increasing instability in Afghanistan.

CNN's ''Larry King Live,'' December 14, 2001, Kerry Said War on Terror ''Doesn't End With Afghanistan'' and Suggested U.S. Move on To Addressing Menace of Saddam Hussein:

I think we clearly have to keep the pressure on terrorism globally. This doesn't end with Afghanistan by any imagination. And I think the president has made that clear. I think we have made that clear. Terrorism is a global menace. It's a scourge. And it is absolutely vital that we continue, for instance, Saddam Hussein.

FLIP FLOP #8: IRAQ NOT ''SOURCE OF SERIOUS DISAGREEMENT WITH OUR ALLIES'' BEFORE WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We know that while Iraq was a source of friction, it was not previously a source of serious disagreement with our allies in Europe and countries in the Muslim world.

CNN's ''Crossfire,'' November 12, 1997, Kerry Questioned Where Russia and France's Backbone To Stand up to Saddam Was:

So clearly the allies may not like it, and I think that's our great concern—where's the backbone of Russia, where's the backbone of France, where are they in expressing their condemnation of such clearly illegal activity, but in a sense, they're now climbing into a box and they will have enormous difficulty not following up on this if there is not compliance by Iraq.

CNN's ''Crossfire,'' November 12, 1997, Kerry Noted French Have Opposed U.S. on a Number of Foreign Policy Issues:

Well, John, frankly neither you nor I know that we did nothing. I don't know that for a fact. We certainly didn't publicly, I agree, but I don't know that we did nothing. But it's not the first time France has been very difficult, as the congressman said. I think a lot of us are very disappointed that the French haven't joined us in a number of other efforts with respect to China, with respect to other issues in Asia and elsewhere and also in Europe.

Fox News' ''The O'Reilly Factor,'' May 22, 2002, Kerry says that Europeans are ''Wrong On Iraq'' and U.S. ''Will Have To Do What We Need To Do.''

Fox News' Bill O'Reilly: ''The ambassador to Germany is basically saying what most people in Europe are saying, senator. They're afraid. They're afraid that if we go after Saddam Hussein, and all the Arabs get crazy, and the whole thing blows up, that Europe's going to take the brunt of this. I said you can't negotiate with tyrants out of fear. How do you feel about it?''

Senator John Kerry: ''I agree with you. . . . [I] think that you're correct in making that judgment. And I think we've all reached a judgment that obviously the United States has to protect our national security interests. And we have to do what we think is right. I do think the European demonstrations are larger than just Iraq. I think they're concerned about other issues, like global warming. They're concerned about proliferation. They're concerned about—I mean, there are a whole host of issues. So I think it's a more confused bag than just Iraq, but I think they're wrong on Iraq. I mean, plain and simply, the United States will have to do what we need to do, and our best judgment to protect our national security. And quite frankly, if we do what we need to do, it will also wind up protecting Europe.''

FLIP FLOP #9: PRESIDENT'S IRAQ POLICY ''HAS WEAKENED'' NATIONAL SECURITY.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Let me put it plainly: The President's policy in Iraq has not strengthened our national security. It has weakened it.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #10: WOULD NOT HAVE INVADED IRAQ GIVEN WHAT HE KNOWS NOW.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Yet today, President Bush tells us that he would do everything all over again, the same way. How can he possibly be serious? Is he really saying that if we knew there were no imminent threat, no weapons of mass destruction, no ties to Al Qaeda, the United States should have invaded Iraq? My answer is no—because a Commander-in-Chief's first responsibility is to make a wise and responsible decision to keep America safe.

CNN's ''Inside Politics,'' August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #11: '' 'CAPABILITY' TO ACQUIRE WEAPONS'' NOT REASON ENOUGH FOR WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Now the president, in looking for a new reason, tries to hang his hat on the 'capability' to acquire weapons. But that was not the reason given to the nation; it was not the reason Congress voted on; it's not a reason, it's an excuse.

Senator John Kerry, Congressional Record, October 9, 2002, page S10171, Kerry Called Those Who Would Leave Saddam Alone ''Naïve to the Point of Grave Danger: ''

It would be naïve to the point of grave danger not to believe that, left to his own devices, Saddam Hussein will provoke, misjudge, or stumble into a future, more dangerous confrontation with the civilized world.

CBS' ''Face The Nation,'' September 15, 2002, Kerry Said Saddam's Miscalculations are Biggest Concern, Not ''Actual'' WMD:

I would disagree with John McCain that it's the actual weapons of mass destruction he may use against us, it's what he may do in another invasion of Kuwait or in a miscalculation about the Kurds or a miscalculation about Iran or particularly Israel. Those are the things that—that I think present the greatest danger. He may even miscalculate and slide these weapons off to terrorist groups to invite them to be a surrogate to use them against the United States. It's the miscalculation that poses the greatest threat.

FLIP FLOP #12: ''CANNOT AFFORD'' TO FAIL IN IRAQ.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

In Iraq, we have a mess on our hands. But we cannot throw up our hands. We cannot afford to see Iraq become a permanent source of terror that will endanger America's security for years to come.

October 17, 2003, S. 1689, CQ Vote #400: Passed 87–12: R 50–0; D 37–11; I 0–1, Kerry Voted Nay:

Kerry voted against the $87 billion supplemental supporting our troops and providing resources needed to win in Iraq.

FLIP FLOP #13: IRAQ WAR ''MADE US LESS SECURE.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I believe the invasion of Iraq has made us less secure and weaker in the war against terrorism.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

Those who doubted whether Iraq or the world would be better off without Saddam Hussein, and those who believe we are not safer with his capture, don't have the judgment to be president or the credibility to be elected president.

FLIP FLOP #14: WOULD HAVE CONTINUED CONTAINMENT OF SADDAM.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I would have tightened the noose and continued to pressure and isolate Saddam Hussein—who was weak and getting weaker—so that he would pose no threat to the region or America.

Senator John Kerry, Committee on Armed Services and Committee on Foreign Relations, U.S. Senate, Joint Hearing, September 3, 1998, Kerry Expressed Opposition to ''Policy of Containment:''

So we've got a major set of choices to make here. And we'd better make them. We've been sliding into a fundamental policy of containment, which I share with Major Ritter the notion is disastrous to our overall proliferation interests and disastrous with respect to the Middle East and our interests with respect to Saddam Hussein and Iraq. But we have to make a decision whether we're prepared to do what is necessary, and I mean to the point of a sustained targeting of the regime; not the Iraqi people, but the regime.

Mr. LOTT. But it goes beyond just the war on Iraq. What worries me is there is a pattern here, across the board, not only in that area that threatens our very security and our lives, the war on terrorism, but in area after area, issue after issue.

For instance, in 1991 Senator KERRY supported most-favored trade status for China and now he criticizes the Bush administration for trading with China.

Which is it? You cannot be for it and against it when you talk about international trade. Trade is good. America can compete. We do need to enlarge the pie. We need to make sure we have fair trade. But you cannot vote one way on trade and then be critical of it on the other side.

In October 2003, Senator KERRY called the fence that is being built in Israel for security purposes a ''barrier to peace.'' He was critical of it. Yet in February of 2004, he calls the fence a ''legitimate act of self-defense.'' You can't get into a very dangerous and sensitive situation like this and say one thing and then the other. What is it? Which is it? An uncertain trumpet takes lives.

Even in the case of eliminating the marriage penalty for the middle class, Senator KERRY said he will fight to keep the tax relief for married couples. He said Democrats fought to end the marriage penalty tax. Yet in 1998, he voted against eliminating the marriage penalty relief for married taxpayers with a combined income of less than $50,000 a year. Last week when we actually extended the elimination of that marriage penalty tax, of course, he didn't vote.

He even flip-flopped on the PATRIOT Act. The PATRIOT Act is a favorite punching bag now.

I was here when the death debate occurred. I remember the broad unanimous support involved in passing that legislation. We needed to do some things to give our law enforcement people the ability to deal with these terrorists. If you look at what has transpired since then, this great fear of having your library card checked or a ''knock in the night'' is not occurring. So he voted for it, and now he attacks the PATRIOT Act. He said:

> We are a nation of laws, and liberties, not of a knock in the night. So it is time to end the era of John Ashcroft.

I think that is an unfair shot at our former colleague, the Attorney General of the United States. Again, Senator KERRY was for the Patriot Act and now he is against it.

On the gay marriage amendment, in 2002, Senator KERRY signed a letter urging the Massachusetts legislature to reject a constitutional amendment banning gay marriage. Yet now in 2004 he won't rule out supporting a similar amendment. Which is it? Is it one thing in Massachusetts and another here in Washington?

Also, I think when you get into other issues like the death penalty for terrorists, these are relevant issues we can't take the wrong position on. Yet, in 1996, he attacked Governor Weld of Massachusetts for supporting the death penalty for terrorists. But now he said he might support the death penalty for terrorists.

On the No Child Left Behind Act, he voted for it, and now he attacks it as a ''mockery.'' He trashed it as an ''unfunded mandate'' with ''laudable goals.''

Let me tell you that I am a son of a schoolteacher. I was in public education all my life. I didn't go to some elite school. I went to public education. I stay in touch with teachers and administrators. And they tell me it is making a difference. We have goals and challenges. Teachers are doing better, students are doing better, and the money has been going up every year.

On issue after issue, he has flip-flopped.

I ask unanimous consent that the remainder of this lengthy list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLIP-FLOPPED ON AFFIRMATIVE ACTION

In 1992, Kerry Called Affirmative Action ''Inherently Limited and Divisive.''

[W]hile praising affirmative action as ''one kind of progress'' that grew out of civil rights court battles, Kerry said the focus on a rights-based agenda has ''inadvertently driven most of our focus in this country not to the issue of what is happening to the kids who do not get touched by affirmative action, but . . . toward an inherently limited and divisive program which is called affirmative action.'' That agenda is limited, he said, because it benefits segments of black and minority populations, but not all. And it is divisive because it creates a ''perception and a reality of reverse discrimination that has actually engendered racism.'' (Lynne Duke, ''Senators Seek Serious Dialogue On Race,'' The Washington Post, 4/8/92)

In 2004, Kerry Denied Ever Having Called Affirmative Action ''Divisive.''

CNN's Kelly Wallace: ''We caught up with the Senator, who said he never called affirmative action divisive, and accused Clark of playing politics.''

Senator Kerry: ''That's not what I said. I said there are people who believe that. And I said mend it, don't end it. He's trying to change what I said, but you can go read the quote. I said very clearly I have always voted for it. I've always supported it. I've never, ever condemned it. I did what Jim Clyburn did and what Bill Clinton did, which is mend it. And Jim Clyburn wouldn't be supporting it if it were otherwise. So let's not have any politics here. Let's keep the truth.'' (CNN's ''Inside Politics,'' 1/30/04)

FLIP-FLOPPED ON ETHANOL

Kerry Twice Voted Against Tax Breaks for Ethanol.

(S. Con. Res. 18, CQ Vote #44: Rejected 48–52: R 11–32; D 37–20, 3/23/93, Kerry Voted Nay; S. Con. Res. 18, CQ Vote #68: Motion Agreed To 55–43: R 2–40; D 53–3, 3/24/93, Kerry Voted Yea)

Kerry Voted Against Ethanol Mandates.

(H.R. 4624, CQ Vote #255: Motion Agreed To 51–50: R 19–25; D 31–25, 8/3/94, Kerry Voted Nay)

Kerry Voted Twice To Increase Liability on Ethanol, Making it Equal to Regular Gasoline.

(S. 517, CQ Vote #87: Motion Agreed To 57–42: R 38–10; D 18–32; I 1–0, 4/25/02 Kerry Voted Nay; S. 14, CQ Vote #208: Rejected 38–57: R 9–40; D 28–17; I 1–0, 6/5/03, Kerry Voted Yea)

On the Campaign Trail, Though, Kerry is for Ethanol.

Kerry: ''I'm for ethanol, and I think it's a very important partial ingredient of the overall mix of alternative and renewable fuels we ought to commit to.'' (MSNBC/DNC, Democrat Presidential Candidate Debate, Des Moines, IA, 11/24/03)

FLIP-FLOPPED ON CUBA SANCTIONS

Senator Kerry has Long Voted Against Stronger Cuba Sanctions.

(H.R. 927, CQ Vote #489, Motion Rejected 59–36: R 50–2; D 9–34, 10/17/95, Kerry Voted Nay; S. 955, CQ Vote #183: Rejected 38–61: R 5–49; D 33–12, 7/17/97, Kerry Voted Yea; S. 1234, CQ Vote #189, Motion Agreed To 55–43: R 43–10; D 12–33, 6/30/99, Kerry Voted Nay; S. 2549, CQ Vote #137: Motion Agreed To 59–41: R 52–3; D 7–38, 6/20/00, Kerry Voted Nay)

In 2000, Kerry Said Florida Politics is Only Reason Cuba Sanctions Still in Place.

Senator John F. Kerry, the Massachusetts Democrat and member of the Foreign Relations Committee, said in an interview that a reevaluation of relations with Cuba was ''way overdue.'' ''We have a frozen, stalemated, counterproductive policy that is not in humanitarian interests nor in our larger credibility interest in the region,'' Kerry said. . . . ''It speaks volumes about the problems in the current American electoral process. . . . The only reason we don't reevaluate the policy is the politics of Florida.'' (John Donnelly, ''Policy Review Likely On Cuba,'' The Boston Globe, 4/9/00)

Now Kerry Panders to Cuban Vote, Saying He Would Not Lift Embargo Against Cuba.

Tim Russert: ''Would you consider lifting sanctions, lifting the embargo against Cuba?''

Senator Kerry: ''Not unilaterally, not now, no.'' (NBC's ''Meet The Press,'' 8/31/03)

Kerry Does Not Support ''Opening Up the Embargo Wily Nilly.''

Kerry said he believes in ''engagement'' with the communist island nation but that does not mean, ''Open up the dialogue.'' He believes it ''means travel and perhaps even remittances or cultural exchanges'' but he does not support ''opening up the embargo wily nilly.'' (Daniel A. Ricker, ''Kerry Says Bush Did Not Build A 'Legitimate Coalition' In Iraq,'' The Miami Herald, 11/25/03)

FLIP-FLOPPED ON NAFTA

Kerry Voted for NAFTA.

(H.R. 3450, CQ Vote #395: Passed 61–38: R 34–10; D 27–28, 11/20/93, Kerry Voted Yea)

Kerry Recognized NAFTA Is Our Future.

NAFTA recognizes the reality of today's economy—globalization and technology,'' Kerry said. ''Our future is not in competing at the low-level wage job; it is in creating high-wage, new technology jobs based on our skills and our productivity.'' (John Aloysius Farrell, ''Senate's OK Finalizes NAFTA Pact,'' The Boston Globe, 11/21/93)

Now, Kerry Expresses Doubt About NAFTA.

Kerry, who voted for NAFTA in 1993, expressed some doubt about the strength of free-trade agreements. ''If it were before me today, I would vote against it because it doesn't have environmental or labor standards in it,'' he said. (David Lightman, ''Democrats Battle For Labor's Backing,'' Hartford Courant, 8/6/03)

FLIP-FLOPPED ON SMALL BUSINESS INCOME TAXES

Kerry Voted Against Exempting Small Businesses and Family Farms From Clinton Income Tax Increase.

(S. Con. Res. 18, CQ Vote #79: Motion Agreed To 54–45: R 0–43; D 54 2, 3/25/93, Kerry Voted Yea)

Three Months Later, Kerry Voted in Favor of Proposal To Exclude Small Businesses From the Increased Income Tax.

(S. 1134, CQ Vote #171: Motion Rejected 56–42: R 43–0; D 13–42, 6/24/93, Kerry Voted Yea)

Kerry Claimed he Fought To Exempt Small Businesses From Income Tax Increases.

I worked to amend the reconciliation bill so that it would . . . exempt small businesses who are classified as subchapter S corporations from the increased individual income tax. (Sen. John Kerry, Congressional Record, 6/29/93, p. S 8268)

KERRY FLIP-FLOPPED ON 50-CENT GAS TAX INCREASE

In 1994, Kerry Backed Half-Dollar Increase in Gas Tax.

Kerry said [the Concord Coalition's scorecard] did not accurately reflect individual lawmakers' efforts to cut the deficit. ''It doesn't reflect my $43 billion package of cuts or my support for a 50-cent increase in the gas tax,'' Kerry said. (Jill Zuckman, ''Deficit-Watch Group Gives High Marks To 7 N.E. Lawmakers,'' The Boston Globe, 3/1/94)

Two Years Later, Kerry Flip-Flopped.

Kerry no longer supports the 50-cent [gas tax] hike, nor the 25-cent hike proposed by the [Concord] coalition. (Michael Grunwald, ''Kerry Gets Low Mark On Budgeting,'' The Boston Globe, 4/30/96)

FLIP-FLOPPED ON LEAVING ABORTION UP TO STATES

Kerry Used To Say Abortion Should be Left up to States.

''I think the question of abortion is one that should be left for the states to decide,'' Kerry said during his failed 1972 Congressional bid. (''John Kerry On The Issues,'' The [Lowell, MA] Sun, 10/11/72)

Now Kerry Says Abortion is Law of Entire Nation.

The right to choose is the law of the United States. No person has the right to infringe on that freedom. Those of us who are in government have a special responsibility to see to it that the United States continues to protect this right, as it must protect all rights secured by the constitution. (Sen. John Kerry [D-MA], Congressional Record, 1/22/85)

FLIP-FLOPPED ON LITMUS TESTS FOR JUDICIAL NOMINEES

Kerry Used To Oppose Litmus Tests for Judicial Nominees.

Throughout two centuries, our federal judiciary has been a model institution, one which has insisted on the highest standards of conduct by our public servants and officials, and which has survived with undiminished respect. Today, I fear that this institution is threatened in a way that we have not seen before. . . . This threat is that of the appointment of a judiciary which is not independent, but narrowly ideological, through the systematic targeting of any judicial nominee who does not meet the rigid requirements of litmus tests imposed . . . (Sen. John Kerry, Congressional Record, 2/3/86, p. S864)

But Now Kerry Says he Would Only Support Supreme Court Nominees Who Pledge To Uphold Roe v. Wade.

The potential retirement of Supreme Court justices makes the 2004 presidential election especially important for women, Senator John F. Kerry told a group of female Democrats yesterday, and he pledged that if elected president he would nominate to the high court only supporters of abortion rights under its Roe v. Wade decision. . . . ''Any president ought to appoint people to the Supreme Court who understand the Constitution and its interpretation by the Supreme Court. In my judgment, it is and has been settled law that women, Americans, have a defined right of privacy and that the government does not make the decision with respect to choice. Individuals do.'' (Glen Johnson, ''Kerry Vows Court Picks To Be Abortion-Rights Supporters,'' The Boston Globe, 4/9/03)

FLIP-FLOPPED ON TAX CREDITS FOR SMALL BUSINESS HEALTH

In 2001, Kerry Voted Against Amendment Providing $70 Billion for Tax Credits for Small Business To Purchase Health Insurance.

(H. Con. Res. 83, CQ Vote #83: Rejected 49–51: R 48–2; D 1–49, 4/5/01, Kerry Voted Nay)

Now, Kerry Promises Refundable Tax Credits to Small Businesses for Health Coverage.

Refundable tax credits for up to 50 percent of the cost of coverage will be offered to small businesses and their employees to make health care more affordable. (''John Kerry's Plan To Make Health Care Affordable To Every American,'' John Kerry For President Website, www.johnkerry.com, Accessed 1/21/04)

FLIP-FLOPPED ON HEALTH COVERAGE

In 1994, Kerry Said Democrats Push Health Care Too Much.

[Kerry] said Kennedy and Clinton's insistence on pushing health care reform was a major cause of the Democratic Party's problems at the polls. (Joe Battenfeld, ''Jenny Craig Hit With Sex Harassment Complaint—By Men,'' Boston Herald, 11/30/94)

But Now Kerry Calls Health Care His ''Passion.''

Senator John Kerry says expanding coverage is ''my passion.'' (Susan Page, ''Health Specifics Could Backfire On Candidates,'' USA Today, 6/2/03)

FLIP-FLOPS ON STOCK OPTIONS EXPENSING

Kerry Used To Oppose Expensing Stock Options.

Democratic Senator John F. Kerry was among those fighting expensing of stock options. (Sue Kirchhoff, ''Senate Blocks Options,'' The Boston Globe, 7/16/02)

Kerry Said Expensing Options Would Not ''Benefit the Investing Public.''

Kerry: ''Mr. President, the Financial Accounting Standards Board . . . has proposed a rule that will require companies to amortize the value of stock options and deduct them off of their earnings statements . . . I simply cannot see how the FASB rule, as proposed, will benefit the investing public.'' (Senator John Kerry, Congressional Record, 3/10/94, p. S2772)

But Now Kerry Says he Supports Carrying of Stock Options as Corporate Expense.

On an issue related to corporate scandals, Kerry for the first time endorsed the carrying of stock options as a corporate expense. The use of stock options was abused by some companies and contributed to overly optimistic balance sheets. Kerry applauded steps by Microsoft Corp. to eliminate stock options for employees and said all publicly traded companies should be required to expense such options. (Dan Balz, ''Kerry Raps Bush Policy On Postwar Iraq,'' The Washington Post, 7/11/03)

FLIP-FLOPPED ON MEDICAL MARIJUANA

Kerry Said His ''Personal Disposition is Open to the Issue of Medical Marijuana.''

Aaron Houston of the Granite Staters for Medical Marijuana said that just a month ago Mr. Kerry seemed to endorse medical marijuana use, and when asked about the content of his mysterious study, said, ''I am trying to find out. I don't know.'' Mr. Kerry did say his ''personal disposition is open to the issue of medical marijuana'' and that he'd stop Drug Enforcement Administration raids on patients using the stuff under California's medical marijuana law. (Jennifer Harper, ''Inside Politics,'' The Washington Times, 8/8/03)

But Now Kerry Says he Wants To Wait for Study Analyzing Issue Before Making Final Decision.

The Massachusetts Democrat said Wednesday he'd put off any final decision on medical marijuana because there's ''a study under way analyzing what the science is.'' (Jennifer Harper, ''Inside Politics,'' The Washington Times, 8/8/03)

FLIP-FLOPPED ON PACS

Kerry Used To Decry ''Special Interests And Their PAC Money.''

''I'm frequently told by cynics in Washington that refusing PAC money is naive,'' Kerry told his supporters in 1985. ''Do you agree that it is 'naive' to turn down special interests and their PAC money?'' (Glen Johnson, ''In A Switch, Kerry Is Launching A PAC,'' The Boston Globe, 12/15/01)

But Now, Kerry Has Established His Own PAC.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates. . . . Kerry's stance on soft money, unregulated donations funneled through political parties, puts him in the position of raising the type of money that he, McCain, and others in the campaign-finance reform movement are trying to eliminate. (Glen Johnson, ''In A Switch, Kerry Is Launching A PAC,'' The Boston Globe, 12/15/01)

FLIP-FLOPPED ON $10,000 DONATION LIMIT TO HIS PAC

When Kerry Established His PAC in 2001, he Instituted a $10,000 Limit on Donations.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates . . . The statement also declared that the new PAC would voluntarily limit donations of so-called soft money to $10,000 per donor per year and disclose the source and amount of all such donations. (Glen Johnson, ''In A Switch, Kerry Is Launching A Pac,'' The Boston Globe, 12/15/01)

One Year Later, Kerry Started Accepting Unlimited Contributions.

Senator John F. Kerry, who broke with personal precedent last year when he established his first political action committee, has changed his fund-raising guidelines again, dropping a $10,000 limit on contributions from individuals, a cap he had touted when establishing the PAC. The Massachusetts Democrat said yesterday he decided to accept unlimited contributions, which has already allowed him to take in ''soft money'' donations as large as $25,000, because of the unprecedented fund-raising demands confronting him as a leader in the Senate Democratic caucus. (Glen Johnson, ''Kerry Shifts Fund-Raising Credo For His Own PAC,'' The Boston Globe, 10/4/02)

FLIP-FLOPPED ON BALLISTIC MISSILE DEFENSE

Kerry Called for Cancellation of Missile Defense Systems in 1984 and has Voted Against Funding for Missile Defense at Least 53 Times Between 1985 and 2000.

(''John Kerry On The Defense Budget,'' Campaign Position Paper, John Kerry For U.S. Senate, 1984; S. 1160, CQ Vote #99: Rejected 21–78: R 2–50; D 19–28, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #100: Rejected 38–57: R 6–45; D 32–12, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #101: Rejected 36–59: R 1–49; D 35–10, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #103: Rejected 33–62: R 28–22; D 5–40, 6/4/85, Kerry Voted Nay; H.J. Res. 465, CQ Vote #365: Motion Agreed To 64–32: R 49–2; D 15–30, 12/10/85, Kerry Voted Nay; H.R. 4515, CQ Vote #122: Ruled Non-Germane 45–47: R 7–42; D 38–5, 6/6/86, Kerry Voted Yea; S. 2638, CQ Vote #176: Motion Agreed To 50–49: R 41–11; D 9–38, 8/5/86, Kerry Voted Nay; S. 2638, CQ Vote #177: Rejected 49–50: R 10–42; D 39–8, 8/5/86, Kerry Voted Yea; S. 1174, CQ Vote #248: Motion Agreed To 58–38: R 8–37; D 50–1, 9/17/87, Kerry Voted Yea; S. 1174, CQ Vote #259: Motion Agreed To 51–50: R 37–9; D 13–41, With

Vice President Bush Casting An ''Yea'' Vote, 9/22/87, Kerry Voted Nay; S. 2355, CQ Vote #124: Motion Agreed To 66–29: R 38–6; D 28–23, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #125: Motion Agreed To 50–46: R 38–7; D 12–39, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #126: Motion Rejected 47–50: R 38–6; D 9–44, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #128: Motion Rejected 48–50: R 6–39; D 42–11, 5/11/88, Kerry Voted Yea; S. 2355, CQ Vote #136: Motion Agreed To 56–37: R 9–34; D 47–3, 5/13/88, Kerry Voted Yea; S. 2355, CQ Vote #137: Motion Agreed To 51–43: R 38–5; D 13–38, 5/13/88, Kerry Voted Nay; H.R. 4264, CQ Vote #251: Motion Rejected 35–58: R 35–9; D 0–49, 7/14/88, Kerry Voted Nay; H.R. 4781, CQ Vote #296: Motion Agreed To 50–44: R 5–39; D 45–5, 8/5/88, Kerry Voted Yea; S. 1352, CQ Vote #148: Motion Agreed To 50–47: R 37–6; D 13–41, 7/27/89, Kerry Voted Nay; H.R. 3072, CQ Vote #202: Rejected 34–66: R 27–18; D 7–48, 9/26/89, Kerry Voted Nay; H.R. 3072, CQ Vote #213: Adopted 53–47: R 39–6; D 14–41, 9/28/89, Kerry Voted Nay; S. 2884, CQ Vote #223: Adopted 54–44: R 2–42; D 52–2, 8/4/90, Kerry Voted Yea; S. 2884, CQ Vote #225: Motion Agreed To 56–41: R 39–4; D 17–37, 8/4/90, Kerry Voted Nay; S. 2884, CQ Vote #226: Motion Agreed To 54–43: R 37–6; D 17–37, 8/4/90, Kerry Voted Nay; S. 3189, CQ Vote #273: Passed 79–16: R 37–5; D 42–11, 10/15/90, Kerry Voted Nay; H.R. 5803, CQ Vote #319: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; H. R. 4739, CQ Vote #320: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; S. 1507, CQ Vote #168: Rejected 39–60: R 4–39; D 35–21, 7/31/91, Kerry Voted Yea; S. 1507, CQ Vote #171: Motion Agreed To 60–38: R 40–3; D 20–35, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #172: Motion Agreed To 64–34: R 39–4; D 25–30, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #173: Rejected 46–52: R 5–38; D 41–14, 8/1/91, Kerry Voted Yea; H. R. 2521, CQ Vote #207: Motion Agreed To 50–49: R 38–5; D 12–44, 9/25/91, Kerry Voted Nay; S. 2403, CQ Vote #85: Adopted 61–38: R 7–36; D 54–2, 5/6/92, Kerry Voted Yea; H.R. 4990, CQ Vote #108: Adopted 90–9: R 34–9; D 56–0, 5/21/92, Kerry Voted Yea; S. 3114, CQ Vote #182: Motion Rejected 43–49: R 34–5; D 9–44, 8/7/92, Kerry Voted Nay; S. 3114, CQ Vote #214: Rejected 48–50: R 5–38; D 43–12, 9/17/92, Kerry Voted Yea; S. 3114, CQ Vote #215: Adopted 52–46: R 39–4; D 13–42, 9/17/92, Kerry Voted Nay; H.R. 5504, CQ Vote #228: Adopted 89–4: R 36–4; D 53–0, 9/22/92, Kerry Voted Yea; S. 1298, CQ Vote #251: Adopted 50–48: R 6–36; D 44–12, 9/9/93, Kerry Voted Yea; S. Con. Res. 63, CQ Vote #64: Rejected 40–59: R 2–42; D 38–17, 3/22/94, Kerry Voted Yea; S. 1026, CQ Vote #354: Motion Agreed To 51–48: R 47–6; D 4–42, 8/3/95, Kerry Voted Nay; S. 1087, CQ Vote #384: Rejected 45–54: R 5–49; D 40–5, 8/10/95, Kerry Voted Yea; S. 1087, CQ Vote #397: Passed 62–35: R 48–4; D 14–31, 9/5/95, Kerry Voted Nay; H.R. 1530, CQ Vote #399: Passed 64–34: R 50–3; D 14–31, 9/6/95, Kerry Voted Nay; H.R. 2126, CQ Vote #579: Adopted 59–39: R 48–5; D 11–34, 11/16/95, Kerry Voted Nay; H.R. 1530, CQ Vote #608: Adopted 51–43: R 47–2; D 4–41, 12/19/95, Kerry Voted Nay; S. 1635, CQ Vote #157: Rejected 53–46: R 52–0; D 1–46, 6/4/96, Kerry Voted Nay; S. 1745, CQ Vote #160: Rejected 44–53: R 4–49; D 40–4, 6/19/96, Kerry Voted Yea; S. 1745, CQ Vote #187: Passed 68–31: R 50–2; D 18–29, 7/10/96, Kerry Voted Nay; S. 936, CQ Vote #171: Rejected 43–56: R 2–53; D 41–3, 7/11/97, Kerry Voted Yea; S. 1873, CQ Vote #131: Motion Rejected 59–41: R 55–0; D 4–41, 5/13/98, Kerry Voted Nay; S. 1873, CQ Vote #262: Motion Rejected 59–41: R 55–0; D 4–41, 9/9/98, Kerry Voted Nay; S. 2549, CQ Vote #178: Motion Agreed To 52–48: R 52–3; D 0–45, 7/13/00, Kerry Voted Nay)

Kerry Then Claimed To Support Missile Defense.

I support the development of an effective defense against ballistic missiles that is deployed with maximum transparency and consultation with U.S. allies and other major powers. If there is a real potential of a rogue nation firing missiles at any city in the United States, responsible leadership requires that we make our best, most thoughtful efforts to defend against that threat. The same is true of accidental launch. If it were to happen, no leader could ever explain not having chosen to defend against the disaster when doing so made sense. (Peace Action Website, ''Where Do The Candidates Stand On Foreign Policy?'' http://www.peace-action.org/2004/Kerry.html, Accessed 3/10/04)

Now Kerry Campaign Says He Will Defund Missile Defense.

Fox News' Major Garrett: ''Kerry would not say how much all of this would cost. A top military adviser said the Massachusetts Senator would pay for some of it by stopping all funds to deploy a national ballistic missile defense system, one that Kerry doesn't believe will work.

Kerry Advisor Rand Beers: He would not go forward at this time because there is not a proof of concept. (Fox News' ''Special Report,'' 3/17/03)

FLIP-FLOPPED ON 1991 IRAQ WAR COALITION

At The Time, Kerry Questioned Strength of 1991 Coalition.

I keep hearing from people, ''Well, the coalition is fragile, it won't stay together,'' and my response to that is, if the coalition is so fragile, then what are the vital interests and what is it that compels us to risk our young American's lives if the others aren't willing to stay the . . . course of peace? . . . I voted against the president, I'm convinced we're doing this the wrong way . . . '' (CBS' ''This Morning,'' 1/16/91)

Now Kerry has Nothing but Praise for 1991 Coalition.

Sen. John Kerry: ''In my speech on the floor of the Senate I made it clear, you are strongest when you act with other nations. All presidents, historically, his father, George Herbert Walker Bush, did a brilliant job of building a legitimate coalition and even got other people to help pay for the war.'' (NBC's ''Meet The Press,'' 1/11/04)

FLIP-FLOPPED ON VIEW OF WAR ON TERROR

Kerry Said War on Terror is ''Basically a Manhunt.''

Kerry was asked about Bush's weekend appearance on ''Meet the Press'' when he called himself a ''war president.'' The senator, who watched the session, remarked: ''The war on terrorism is a very different war from the way the president is trying to sell it to us. It's a serious challenge, and it is a war of sorts, but it is not the kind of war they're trying to market to America.'' Kerry characterized the war on terror as predominantly an intelligence gathering and law enforcement operation. ''It's basically a manhunt,'' he said. ''You gotta know who they are, where they are, what they're planning, and you gotta be able to go get 'em before they get us.'' (Katherine M. Skiba, ''Bush, Kerry Turn Focus To Each Other,'' Milwaukee Journal Sentinel, 2/13/04)

Two Weeks Later, Kerry Flip-Flopped, Saying War on Terror is More Than ''A Manhunt''.

This war isn't just a manhunt—a checklist of names from a deck of cards. In it, we do not face just one man or one terrorist group. We face a global jihadist movement of many groups, from different sources, with separate agendas, but all committed to assaulting the United States and free and open societies around the globe.'' (Senator John Kerry, Remarks At University Of California At Los Angeles, Los Angeles, CA, 2/27/04)

FLIP FLOPPED ON INTERNET TAXATION

In 1998, Kerry Voted To Allow States To Continue Taxing Internet Access After Moratorium Took Effect.

Kerry voted against tabling an amendment that would extend the moratorium from two years to three years and allow states that currently impose taxes on Internet access to continue doing so after the moratorium takes effect. (S. 442, CQ Vote #306: Motion Rejected 28–69: R 27–27; D 1–42, 10/7/98, Kerry Voted Nay)

In 2001, Kerry Voted To Extend Internet Tax Moratorium Until 2005 and Allow States To Form Uniform Internet Tax System With Approval of Congress.

(H.R. 1552, CQ Vote #341: Motion Agreed To 57–43: R 35–14; D 22–28; I 10–1, 11/15/01, Kerry Voted Nay)

Kerry Said ''We Do Not Support Any Tax on the Internet Itself.''

''We do not support any tax on the Internet itself. We don't support access taxes. We don't support content taxes. We don't support discriminatory taxes. Many of us would like to see a permanent moratorium on all of those kinds of taxes. At the same time, a lot of us were caught in a place where we thought it important to send the message that we have to get back to the table in order to come to a consensus as to how we equalize the economic playing field in the United States in a way that is fair.'' (Senator John Kerry, Congressional Record, 11/15/01, p. S11902)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do I have 20 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask the Chair to remind me when I have 4 minutes left.

The PRESIDING OFFICER. The Senator will be notified.

THIRTEEN REASONS WHY WE ARE NOT SAFER

Mr. KENNEDY. Mr. President, my friend from Mississippi attempted to describe my friend and colleague's position on a variety of different issues. As we know around here, one of the favorite techniques—we have just seen it—is to distort and misrepresent someone's position and then differ with it. That is what has been done with regard to Senator KERRY's position on the issues we just heard about. I know about the No Child Left Behind Act. I know JOHN KERRY's position, and I know his position on health care. We talk about his position on health care. What he wants for the American people is the same thing President Bush has for himself. When he talks about the No Child Left Behind Act, the fact is 4⅕ million children aren't getting the benefits of it. He can defend himself.

It is always interesting to me to listen to distortions and misrepresentations on his record. Read the Web site.

I listened to the Senator from Kentucky talk about Senator KERRY on Iraq. The fact of the matter is this President can't solve that problem. He has had his turn, and it is time to have someone new. You can ask, Why? Because he has burned his bridges with

the international community. He has insulted the world community and shattered and shredded all of the treaties of the United States with the world community on the matter of dealing with Iraq. They don't trust him. And they won't. And they will JOHN KERRY. You have had your time, Mr. President. You have had your turn to try to do it. JOHN KERRY has a plan to be able to do it. He has outlined that and it offers the best reason and the best hope for us to be able to achieve it.

Twenty-four years ago, the President of the United States, Ronald Reagan, posed the defining question to the American people in that election when he asked, ''Are you better off today than you were 4 years ago?'' That simple question is given greater relevance now than when Ronald Reagan asked it.

The defining issue today is national security. Especially in the post 9/11 world, people have the right to ask Ronald Reagan's question in a very specific and all- important way. Are we safer today because of the policies of President Bush?

Any honest assessment can lead to only one answer—and that answer is an emphatic no. President Bush is dead wrong and JOHN KERRY is absolutely right. We are not safer today and the reason we are not safer is because of the President's misguided war in Iraq. The President's handling of the war has been a toxic mix of ignorance, arrogance, and stubborn ideology. No amount of Presidential rhetoric or preposterous campaign spin can conceal the truth about the steady downward spiral in our national security since President Bush made that decision to go to war in Iraq.

No issue is more important today. The battle against terrorism is a battle we must win. Even those of us who opposed the war in Iraq understand that this is now an American commitment and we must see it through. But to remain silent in the face of mounting failures by this President and this White House is to weaken our security even further, and we cannot let that happen.

The President keeps saying America and the world are safer today and better off today because Saddam Hussein is gone. Let us count the ways that George Bush's war has not made America safer.

No. 1, Iraq has been a constant, perilous distraction from the real war on terrorism. There was no persuasive link between Saddam Hussein and al-Qaida. All you have to do is read the 9/11 Commission report. There it is on page 66.

Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in the development or carrying out any attacks against the United States.

There it is—9/11 Commission, Mr. CHENEY; 9/11 Commission, Mr. Bush.

It is stated in the staff commission report as well:

Two senior bin Laden associates adamantly denied any ties between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

There it is. There it is, and this President indicates that this ties in.

We should have finished the job in Afghanistan. We should have finished the job with al-Qaida and the job with Osama bin Laden.

No. 2, the mismanagement of the war in Iraq has created a fertile and very dangerous new breeding ground for terrorists in Iraq and a powerful magnet for al-Qaida that didn't exist before the war. We can't go a day now without hearing of attacks in Iraq by insurgents and al-Qaida terrorists, and our troops are in far greater danger because of it.

In the month of August, 863 Americans were killed or wounded; 70 attacks every single day on American troops. And we hear the rosy picture of this administration, and the Secretary of Defense saying, ''I am encouraged by the way things are going.'' The President of United States said only a week ago that it is just a handful of insurgents.

Let us get real. This is what is happening. That this violence would occur was abundantly clear before the war.

We find in today's New York Times, pre-war assessment on Iraq shows chance of strong divisions. Is this the same intelligence unit that produced a gloomy report in July that President Bush says is just a matter of guesswork by our intelligence agencies? He changed that to ''estimate'' but initially called it ''guesswork.''

About the prospect of growing instability in Iraq, the report ''warned'' the Bush administration about the ''potential costly consequences of American-led invasion 2 months before the war began, Government officials said.''

The assessments predicted that an American invasion of Iraq would ''increase sympathy'' and support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

There it is. Give it to the President of the United States. We have 140,000 American boys over there, with no tie-in with al-Qaida? And the predictions are right there in front of us that we were going to have this kind of conflict over there. And this administration says: Oh, no, we are a lot better off than we were before.

We should have finished the job against al-Qaida. We should have finished the job in Afghanistan. We should have had Osama bin Laden behind bars instead of Saddam Hussein.

And what did the administration do? They put on their ideological blinders, ignored the intelligence, and rushed headlong into a misguided war that has put our troops in perilous danger.

Mr. President, if we had gone into Afghanistan, we could have either ended or damaged al-Qaida, and captured Osama bin Laden. But al-Qaida is like a cancer. It metastasized. We had an opportunity to grab it all when we battled in Afghanistan, but we did not. We stepped back. We went into Iraq. And what has happened? Like a cancer, it has metastasized all over the world—in Southeast Asia, in Saudi Arabia, as far as Morocco, all over. It is a fundamental and basic miscalculation, and the American people are in greater danger as a result of that decision not to close the door on al-Qaida.

No. 4, because of the war, the danger of terrorist attacks against America itself has become greater. Our preoccupation with Iraq has given al-Qaida 2 full years to regroup and plan murderous new assaults on us. We know al-Qaida will try to attack America again and again at home if it possibly can. Yet instead of staying focused on the real war on terror, President Bush rushed headlong into an unnecessary war in Iraq.

No. 5, and most ominously, the Bush administration's focus on Iraq has left us needlessly more vulnerable to an al-Qaida attack with a nuclear weapon. The greatest threat of all to our homeland is a nuclear attack. A mushroom cloud over any American city is the ultimate nightmare, and the risk is all too great. Osama bin Laden calls the acquisition of a nuclear device a ''religious duty.'' Documents captured from a key al-Qaida aide 3 years ago reveal plans even then to smuggle high-grade radioactive materials into the United States in shipping containers.

If al-Qaida can obtain or assemble a nuclear weapon, they will use it on New York, Washington, or any American city. The greatest danger we face in the days and weeks ahead is a nuclear 9/11, and we hope and pray it is not already too late to prevent. The war in Iraq has made the mushroom cloud more likely, not less likely, and it never should have happened.

No. 6, the war in Iraq has provided a powerful worldwide recruiting tool for al-Qaida. We know al-Qaida is getting stronger because its attacks in other parts of the world are increasing. In the 8 years before 9/11, al-Qaida conducted three attacks. But in the 3 years since 9/11, it has carried out a dozen more attacks, killing hundreds in Spain, Pakistan, Indonesia, and elsewhere.

No. 7, because of the war, Afghanistan itself is still unstable. Taliban and al-Qaida elements roam the country. A dangerous border with Pakistan, where terrorists can easily cross, continues to be wide open. President Hamid Karzai is frequently forced to negotiate with warlords who control private armies in the tens of thousands. Opium production is at a record level and is being used to finance terrorism. Our troops there are in greater danger. Free and fair elections are in greater danger. The war in Iraq has stretched our troops thin to the point where we cannot provide enough additional forces to stop the rising drug trade and enable President Karzai to gain full control of

the country and root out al-Qaida. How can we afford not to do that?

No. 8, we have alienated longtime friends and leaders in other nations, whom we heavily depend on for intelligence, for border enforcement, for shutting off funds to al-Qaida, and for many other types of support in the ongoing war against international terrorism. Mistrust of America has soared throughout the world, and we are especially hated in the Muslim world. In parts of it, the bottom has fallen out.

The past 2 years have seen the steepest and deepest fall from grace our country has ever suffered in the eyes of the world community in all our history. We remember the enormous goodwill that flowed to America in the aftermath of September 11, and we never should have squandered it.

Does President Bush ever learn? His chip-on-the-shoulder address to the United Nations last week was yet another missed opportunity to turn the page and start regaining the genuine support of the world community for a sensible policy on Iraq.

In fact, the President's arrogance toward the world community has left our soldiers increasingly isolated and alone. We have nearly 90 percent of the troops on the ground in Iraq, and more than 95 percent of those killed and wounded are Americans. Instead of other nations joining us, initially supportive nations are pulling out. The so-called coalition of the willing has become the coalition of the dwindling.

No. 9, our overall military forces are stretched to the breaking point because of the war in Iraq. As the Defense Science Board recently told Secretary Rumsfeld:

> Current and projected force structure will not sustain our current and projected global stabilization commitments.

LTG John Riggs said it clearly:

> I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.

As Senator JOHN MCCAIN warned last week, if we have a problem in some other flash point in the world, ''it's clear, at least to most observers, that we don't have sufficient personnel.''

The war has also undermined the Guard and Reserve. Many Guard members are also first responders for any terrorist attack on the United States. Our homeland security, as well, is being weakened because of their loss.

No. 10, the war in Iraq has undermined the basic rule of international law that protects captured Americans. The Geneva Conventions are supposed to protect our forces, but the brutal interrogation techniques used at Abu Ghraib prison in Iraq have lowered the bar for treatment of POWs and endangered our soldiers throughout the world.

No. 11, while President Bush has been preoccupied with Iraq, not just one but two serious nuclear threats have been rising—from North Korea and Iran. Four years ago, North Korea's plutonium program was inactive. Its nuclear rods were under seal. Two years ago, as the Iraq debate became intense, North Korea expelled the international inspectors and began turning its fuel rods into nuclear weapons. At the beginning of the Bush administration, North Korea was already thought to have two such weapons. Now they may have eight or more, and the danger is far greater.

Iran, too, is now on a fast track that could produce nuclear weapons. The international inspectors found traces of highly enriched uranium at two nuclear sites, and Iran admitted last March that it had the centrifuges to enrich uranium. The international community might be more willing to act if President Bush had not abused the U.N. resolution passed on Iraq 2 years ago, when he took the words ''serious consequences'' as a license for launching his unilateral war in Iraq. Now, after that breach of faith with the world community, other nations now refuse to trust us enough to enact a similar U.N. resolution on Iran because they fear President Bush will use it to justify another reckless war.

No. 12, while we focused on the nonexistent nuclear threat from Saddam, we have not done enough to safeguard the vast amounts of unsecured nuclear material in the world. According to a joint report by the Nuclear Threat Initiative and Harvard's Managing-the-Atom Project, ''scores of nuclear terrorist opportunities lie in wait in countries all around the world''—especially at sites in the former Soviet Union that contain enough nuclear material for a nuclear weapon and are poorly defended against terrorists and criminals.

As former Senator Sam Nunn said:

> The most effective, least expensive way to prevent nuclear terrorism is to secure nuclear weapons and materials at the source.

How loudly—how loudly—does the alarm bell have to ring before President Bush wakes up?

No. 13, the neglect of the Bush administration of all aspects of homeland security because of the war is frightening. All we have to do is look at today's paper.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. KENNEDY. Mr. President, I ask the Chair to notify me when I have 1 minute remaining.

It says in the paper that the FBI is said to lag on translations. It talks about 3 years after 9/11 more than 120,000 hours of potentially valuable terrorism-related recordings have not been translated by the linguists at the FBI. Then it talks about that the al-Qaida messages ''tomorrow is zero hour'' and ''the match is about to begin'' were intercepted by the National Security Agency on September 10 but not translated until days afterwards.

Homeland security? Why aren't we getting this done in terms of securing our homeland? We are pouring nearly $5 billion a month into Iraq. We are grossly shortchanging the urgent need to strengthen our ability to prevent terrorist attacks at home and to strengthen our preparedness to respond to them if they occur.

As former Republican Senator Warren Rudman, chairman of the Independent Task Force on Emergency Responders, said: ''Homeland security is terribly underfunded.''

That is a Republican Senator who is saying that. That isn't a Democrat. ''Terribly underfunded.''

We see what happens as a result. Our hospitals are unprepared for a bioterrorist attack. Our land borders, our seaports, our shipping containers, our transit systems, our waterways, nuclear power—none of these have sufficient funds for protection against terrorist attacks, even though the Bush administration has put the Nation on high alert for such attacks five times in the last 3 years.

You can't pack all these reasons America is not safer into a 30-second television response ad or a news story or an editorial. But as anyone who cares about the issue can quickly learn, our President has no credibility—no credibility—when he keeps telling us that America and the world are safer because he went to war in Iraq and rid us of Saddam Hussein.

President Bush's record on Iraq is clearly costing American lives and endangering America and the world. Our President won't change or even admit how wrong he has been and still is. Despite the long line of mistaken blunders and outright deception, there has been no accountability. As election day draws closer, the buck is circling more and more closely over 1600 Pennsylvania Avenue. Only a new President can right the extraordinary wrongs of the Bush administration on our foreign policy and our national security.

On November 2, the American people will decide whether they still have confidence in this President's leadership. When we ask ourselves the fundamental question, whether President Bush has made us safer, there can only be one answer. No, he has not. That is why America needs new leadership. We could have been, and we should have been much safer than we are today.

We cannot afford to stay this very dangerous course. This election cannot come soon enough. As I have said before, the only thing America has to fear is 4 more years of George Bush.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Wisconsin.

THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD. Mr. President, September 3, 2004, marked the 40th anniversary of the Wilderness Act. I have introduced a resolution, S. Res. 387, commemorating this important milestone, and I hope the Senate will approve this resolution, which has 18 cosponsors, before we adjourn for the year.

I would like to take this opportunity to recognize the many people who have

helped us preserve over 106 million acres of wilderness for future generations to hike, to hunt, to fish, and to enjoy.

People such as Howard Zahniser, Olaus and Mardy Murie, Ceila Hunter, and Bob Marshall had the vision to protect our wild places. Legislators such as John Saylor and Hubert Humphrey listened to them and made their vision a reality.

As a Senator from Wisconsin, I feel a special bond with this issue. My State has produced great wilderness thinkers and leaders, such as the writer and conservationist Aldo Leopold, whose ''A Sand County Almanac'' helped to galvanize the environmental movement; like Sierra Club founder John Muir; and like Sigurd Olson, one of the founders of the Wilderness Society.

Senator Clinton Anderson of New Mexico said that his support of the wilderness system was the direct result of discussions he had held almost 40 years before with Leopold. And then-Secretary of the Interior Stewart Udall referred to Leopold as the instigator of the modern wilderness movement.

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 an important justification for the wilderness system.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. He is a well-known and widely respected former Senator and two-term Governor of Wisconsin, and the founder of Earth Day. What I find so remarkable is that, even after a distinguished career in public service, he continues to work for conservation. 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 a co-sponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

I am proud of Wisconsin's part in making this legislation law, and I am proud to carry on that tradition through the Senate Wilderness Caucus.

I also wish to thank my colleagues the senior Senator from West Virginia, Mr. BYRD, the senior Senator from Massachusetts, Mr. KENNEDY, and the senior Senator from Hawaii, Mr. INOUYE, all of whom served in the Senate in 1964 and voted for the Wilderness Act.

That Act was the first piece of legislation in the world to preserve wild places. Forty years after the act passed, wilderness still enjoys widespread, bipartisan support. Just recently the Bush administration announced its recommendation for wilderness designation of the Apostle Islands National Lakeshore in Wisconsin, a place that is near and dear to my heart and to the hearts of many Wisconsinites. I thank my former staffer Mary Frances Repko, who for 9 years worked tirelessly to promote, protect, and push for a wilderness study for the Apostles Islands, and to preserve America's public lands.

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.

I yield the floor.

Mr. BYRD. Mr. President, I recently received a letter from Mrs. Margaret Baker of Hillsboro, WV, who wrote of ''how important wilderness areas are to the quality of life in West Virginia.'' Writing about West Virginia's Cranberry Wilderness Area, she explains that, in this special place ''you can take your children here and actually see what nature looks like when it's not in a neatly labeled museum exhibit, when the animals aren't in cages and the trees aren't trimmed into perfect little bricketts of shrubbery.''

Mrs. Baker's letter continues:

> My husband and I hike in the Cranberry Wilderness and always see something that is astonishing, a forest of ferns, an abstract art work of lichen or sunset colored mushrooms. You can see a picture of a wilderness area but unless you smell it, and feel the mud under your boots, experience the light shining on it and hear the birds and crickets, you can't really appreciate how amazing the offerings of the planet are. I think West Virginians have a duty to preserve this reminder of what is good and wholesome and worth being optimistic about in our world. Help keep West Virginia wild.

I share that letter today for several reasons. The first is that Mrs. Baker's letter gives me the opportunity to boast of the natural beauty of West Virginia, which everyone knows I like to do. One should not doubt that areas like the Cranberry Wilderness are both beautiful and unique. This incredible area of 35,864 acres of broad and massive mountains and deep, narrow valleys is the State's largest wilderness area.

As Mrs. Baker's letter so movingly indicates, visitors to the Cranberry Wilderness directly and vividly experience nature. Its wildlife includes black bear, white-tailed deer, wild turkey, mink, bobcat, numerous varieties of birds, and many species of reptiles. The waters of the Cranberry Wilderness are home to brook trout and several species of amphibians. Vegetation in the area includes spruce and hemlock at the higher elevations and hardwood trees such as black cherry and yellow birch and thickets of rhododendrons and mountain laurel in the lower terrain.

How exciting and rewarding it is to know that individuals like Mrs. Baker are able to use and enjoy this great wilderness. I certainly agree with Mrs. Baker that we ''have a duty to preserve this [and other] reminders of what is good and wholesome.''

That brings me to my second reason for sharing Mrs. Baker's letter with you. This year, 2004, is the 40th anniversary of the Wilderness Act of 1964, which was enacted to ensure that special places like the Cranberry Wilderness would be protected for future generations. In an era of ''an ever increasing population, accompanied by expanding settlement and growing mechanization,'' the Wilderness Act declared that we must secure the land where ''the earth and its community of life are untrammeled by man and where man himself is a visitor.''

My home State of West Virginia has certainly benefitted from the creation of wilderness areas, and the Cranberry Wilderness is just one of the five wilderness areas in my State. The others include Dolly Sods, Otter Creek, Laurel Fork North, and Laurel Fork South Wilderness Areas, and West Virginia remains wild and wonderful, in part, because of Congress's actions. Furthermore, our Nation's 662 wilderness areas have given Americans a freedom to explore. This freedom has been secured and protected so that future generations also may enjoy the beauty of God's creation.

Covered from end to end, and on all sides, by the ancient Appalachian Mountains, West Virginia is exquisite in its natural splendor. It is the most southern of the northern; the most northern of the southern; the most eastern of the western; and the most western of the eastern States. It is where the east says ''good morning'' to the west, and where Yankee Doodle and Dixie kiss each other goodnight.

It is only fitting that, on the celebration of the 40th anniversary of the Wilderness Act, we cast our eyes backward so that we might have insight into how to better prepare for future events. On a whole range of important issues, the Senate has always been blessed with Senators who were able to reach across party lines and consider, first and foremost, the national interest.

Our late colleague, Senator Hubert H. Humphrey was certainly such a person. He introduced the first wilderness bill in the Senate in 1956 and was there for its passage in 1964. Other former colleagues had this ability, including Senators Scoop Jackson, Clinton Anderson, Frank Church, Richard Russell, and Mike Mansfield. They understood the art of legislating, and they reveled in it. For this and other reasons, I am also honored to be associated with such Senators and to be the recipient of the Hubert H. Humphrey Wilderness Leadership Award that was presented to me earlier this month.

As we look back 40 years, we can see how the seeds of legislation have blossomed. This certainly rings true of the

passage of the Wilderness Act. Through four Congresses, Members on both sides of the aisle worked through the key challenges and made the right compromises rather than simply succumbing to the purely political tactics and rhetoric that seem to dominate today. The debate on the Wilderness Act should serve as a great example of how Members of both parties in the Senate and the House of Representatives can come together to pass historic pieces of legislation.

It is hard for me to believe that 40 years have passed since Congress first approved the Wilderness Act. It is also hard to believe that only Senators INOUYE and KENNEDY and I remain in the Senate as Members who voted for that original legislation. Yet today we can proudly say that the original designation of 9.1 million acres in that first bill has expanded to more than 105 million acres in 44 States. I believe that this landmark legislation should serve as a lesson for those who are seeking guidance regarding other important measures before this and future Congresses.

In closing, I am reminded of the immortal words of one of America's foremost conservationists and outdoorsmen, John Muir:

> Oh, these vast, calm, measureless mountain days, inciting at once to work and rest! Days in whose light everything seems equally divine, opening a thousand windows to show us God. Nevermore, however weary, should one faint by the way who gains the blessing of one mountain day: whatever his fate, long life, short life, stormy or calm, he is rich forever. . . . I only went out for a walk, and finally concluded to stay out till sundown, for going out, I found, was going in.

Mr. REID. Mr. President, I rise today to recognize the 40th anniversary of the Wilderness Act.

From the days of the earliest settlers, wilderness has always been a defining part of our national heritage. Simply put, the American wilderness helped shape the American values of freedom, opportunity and independence.

As it did in 1964, Nevada still contains many of the wildest and least traveled places in the lower 48 States. The remote and untamed areas of Nevada represent a reservoir of challenges and opportunities for hunters, fishermen, birdwatchers, photographers, and other outdoorsmen.

We all play a stewardship role, and I am proud of the job our nation has done and continues to do in upholding these uniquely American values.

In particular, I would like to recognize four individuals from my home State of Nevada who are true wilderness heroes.

Marge Sill has advocated protecting wild places for more than 4 decades. She worked to pass the 1964 Act, as well as every Nevada wilderness bill since then. Marge helped establish the Friends of Nevada Wilderness, which celebrates its 20th anniversary this year, and has mentored multiple generations of wilderness advocates.

Hermie and John Hiatt have been leaders in Nevada conservation efforts for more than 2 decades. Their tireless advocacy for wilderness and environmental protection particularly in southern and eastern Nevada serves as inspiration for many. Their interest in and knowledge of the science behind conservation serves Nevada well.

Finally I would like to recognize Roger Scholl, who played a key role in the development of the 1989 Nevada Wilderness Protection Act. In a quiet but effective and reasonable manner, Roger has consistently sought to develop consensus wilderness proposals. From Mt. Moriah and the Schell Creek Range in White Pine County to Mr. Rose and High Rock Canyon in Washoe County, Roger's work on wilderness issues has benefited Nevada and our Nation. His counsel has served me well.

Through the work of these Nevadans the number of Nevada wildernesses has grown from one, the Jarbidge Wilderness, to more than 40 in 40 years. I commend them for their work on behalf of Nevada and the Nation.

As President Lyndon Johnson said upon signing the Wilderness Act, ''If future generations are to remember us with gratitude rather than contempt, we must leave them something more than the miracles of technology. We must leave them a glimpse of the world as it was in the beginning.''

With stewards such as these four great Nevadans, If know that our Nation's great wilderness heritage will be secure for generations to come.

Mrs. BOXER. Mr. President, forty years ago this month, President Lyndon Johnson signed the Wilderness Act, which set aside some of the most quintessential American landscapes in this vast country. This visionary law first protected about 9 million acres of public lands. Today, as a result of a bipartisan commitment by successive Congresses and Presidents, 105 million acres of land are protected in 44 States.

California is blessed to have nearly 14 million acres permanently protected as wilderness for the public to enjoy and as a legacy for future generations. These areas include some of the most spectacular lands and diverse ecosystems, including forests, deserts, coastal mountains and grasslands.

Americans have long recognized the need to protect our public lands and their vast resources. John Muir, along with U.S. presidents from both parties, including Teddy Roosevelt, foresaw the need for us to protect these precious lands, lest they be lost forever.

Wilderness provides a place of refuge from urban pressures. Millions of Americans retreat to wilderness to fish, hunt, horseback ride, cross-country ski, hike and pursue other recreational breaks from everyday life.

Wilderness protects watersheds that provide clean water to our cities and farms. Forests cleanse our air and provide habitat for countless plant and animal species, many of which are endangered. Wilderness provides something else that is harder to measure, solitude and peace. California's population of nearly 36 million will balloon to 50 million in the next 20 years, so space will become even more precious.

I am pleased to cosponsor Senator FEINGOLD's resolution honoring the 40th anniversary of the Wilderness Act. I am also pleased to be the author of the California Wild Heritage Act, which would protect approximately 2.5 million acres of public lands as wilderness. The areas that would be protected by this legislation include: the King Range on the Lost Coast in Northern California; the White Mountains in eastern California, home to the ancient Bristlecone Pines; and Eagle Peak in San Diego County, which includes the headwaters of the San Diego River and is home to great plant and animal diversity.

These and many other areas deserve the protection that was envisioned back in 1964, when the Wilderness Act was signed into law.

I believe that our beautiful and varied landscapes help make us the people that we are. Today, we look back and are thankful for those who worked to set aside the rich tapestry that is our wilderness heritage. But looking back is not enough. We must also dedicate ourselves to securing the irreplaceable remaining unprotected wilderness areas as our legacy for those who follow us.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on the Democratic side?

The PRESIDING OFFICER. There is 11 minutes.

CHALLENGES FACING AMERICA

Mr. DURBIN. Mr. President, I thank the Chair for this opportunity to speak on issues that go to the heart of the challenges facing America and the challenge we face in the upcoming election. Is there one of us who can forget 9/11, where we were, how our lives were changed, how America was changed?

I was in this building, evacuated in panic as the White House was being evacuated, wondering what would happen next. Senators, Congressmen were dispersing in every direction, trying to find some safe place with all the visitors in the Capitol.

I remember, as well, what happened during the course of that day. By the evening time, after the President had spoken to our country, Members of the Senate and House, Democrats and Republicans, in a remarkable, unprecedented move, stood together singing ''God Bless America'' on the steps of our Capitol—a sense of unity, a sense of purpose, a determination to avenge those who had attacked the United States and to protect Americans here and abroad.

Recall how the world reacted. Countries that had been barely friendly to the United States stood up and said

they would be on our side in the war against terrorism, stood up and said they would help us to make sure such an attack never occurred again, a broad coalition of countries standing behind the United States, many of these same countries we had helped in years gone by. Now they were prepared to help us.

We came here on Capitol Hill and in a matter of hours did two very important things. First, we declared war on the clear enemy of the United States, al-Qaida. Of course, the Taliban in Afghanistan became the focus of our military effort. It was a bipartisan vote, an overwhelming vote. There were no partisan speeches. We were together. We had identified the enemy. We were moving forward. We were not going to forget what happened on 9/11 even as we buried our dead and honored the wounded and the heroes of America.

And then think what happened next. We said to our Government: We are going to give you the tools and resources you need to fight this war against terrorism, to wage this war in Afghanistan. Again, we stood in a bipartisan fashion.

It is hard to believe that was only 3 years ago. It seems like so much longer. What has happened in the meantime? Take a look around at the United States and the world community. Countries that stood with us after 9/11, determined to help us, have walked away from us. Americans who were determined to work together are divided. We find ourselves with scarce resources to really attack the enemies of the United States. We find ourselves counting the dead and wounded on a daily basis, with no end in sight.

What has happened to make the difference? What has happened is a decision by this administration to lose focus, to stop this intensive effort against the enemies of 9/11 and instead to wage a war in Iraq—a war which sadly goes on and on every single day, with no end in sight. For some in the administration, it was an answer to a prayer; 9/11 was the reason and the excuse that was needed to attack Iraq. This irrational passion to go after Saddam Hussein in Iraq, whatever the threat against the United States, has led us to a point where we find so many of our best and brightest and bravest Americans dying and facing severe injuries and wounds in Iraq every single day.

When the war began in Iraq, I said I wanted to call every family in Illinois who loses a soldier. I have not been able to do that. Some I could not get through to. I have to tell you, there is a stack of six names on my desk. Over 50 Illinoisans have been killed in this war and there is no end in sight.

I spoke to another family yesterday, the family of a 28-year-old marine from Pana, IL, a wonderful young man who was dedicated to this country. He lost his life a few days ago. How many times that story has been played out over and over again—over a thousand times American soldiers killed, over 7,000 gravely wounded.

I have been to Walter Reed and I have seen them with arms blown off, legs blown off, loss of both hands, head injuries, blinded, paraplegics. These are the wounded who come back from Iraq.

What do we know today? We know the case made by the Bush administration for the invasion of Iraq was wrong. We know the information given to the American people to justify the invasion of this country was wrong. How do we know that? The Senate Intelligence Committee, in a bipartisan report, came up with the clear conclusion that our intelligence was just plain wrong.

When the President told us we would find an arsenal of weapons of mass destruction, over a year and a half later we have found none. When the President told us we would find a stockpile of nuclear weapons threatening the Middle East and the United States, we have found none. When the President told us there was a linkage between Saddam Hussein and al-Qaida, the attackers of 9/11, we have found none. The list goes on and on.

The President has come back and retracted statements he made in the State of the Union Address, incorrectly saying that fissile materials, nuclear materials, were sent from Africa to Iraq. So the information given to the American people to justify the war turned out to be wrong.

Now, the question is, How were the American people misled? Was it deliberate? I personally believe that unless there is clear, credible, and convincing evidence that the President and his administration knew the information was wrong, you cannot say it was a deliberate deception of the American people. But this much you can say: People within this administration who continue to parrot these lines they know are false are, frankly, not only doing a great disservice to the American people, they have a wanton, reckless disregard for the truth.

Let me give you some quotes to back that up, so you understand what we are talking about. This is a statement made by President Bush at a press conference a few months ago:

> The reason that I keep insisting there was a relationship between Iraq and al-Qaida is because there is a relationship between Iraq and al-Qaida.

Look what Secretary of State Colin Powell said a few days ago:

> I have seen nothing that makes a direct connection between Saddam Hussein and that awful regime and what happened on 9/11.

That is his own Secretary of State who says the President is not telling the American people the facts.

Look at the 9/11 Commission report. This is a report prepared on a bipartisan basis, which has been lauded by everybody in Congress. This is what they say:

> We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

Yet if you ask the American people, they will make the following argument: It is far better for us to be fighting terrorism in al-Qaida over there than to be fighting it here in the United States. These conclusions by the 9/11 Commission and Secretary of State Colin Powell tell you that statement is just plain wrong.

We are not fighting al-Qaida in Iraq. The al-Qaida forces, as Senator KENNEDY said earlier, have metastasized around the world. They are a threat to all of us.

Let us tell you what we know for sure. We have lost international cooperation in Iraq; the same cooperation that was there to help us fight terrorism is gone. Our coalition continues to dwindle and the losses are to American troops; 95 percent of those killed and wounded are American soldiers. If you want to know who is waging the war, how much commitment is being made by this coalition, that statistic tells it all.

Secondly, we were unprepared, we were not prepared, our troops did not have the necessary equipment and even training for what they faced after the initial military victory in Iraq.

Over the weekend, back home, officers in the Illinois National Guard told us their units are being asked to do things far beyond their training capability. We know our troops went into battle in the aftermath without the necessary body armor and that the Humvees were not properly equipped for what happened in Iraq. We know our helicopters didn't have the necessary defense equipment—this from an administration that received every penny it asked for from Congress to wage this war.

This Commander in Chief did not stand up for our troops, was not prepared to defend our troops, and we have seen what resulted: over 1,000 dead, over 7,000 wounded.

There is no end in sight.

There is a litany of quotes from Senator HAGEL, Senator MCCAIN, Senator LUGAR, and so many others on the Republican side who have joined on the Democratic side to say that, clearly, we are not winning the war in Iraq. This Commander in Chief cannot crow and brag about the great job in Iraq. We are there with no end in sight.

We have found now that we have been misled in going into Iraq, and we continue to be misled by statements from this administration about the reason for the war and what we can expect its outcome to be.

There are many who argue that JOHN KERRY should not be elected President because he cannot come up with a plan to extricate us from this complicated mess in Iraq. That, to me, is a curious position. This President, President Bush, drove our national bus into a cul-de-sac and now he can't turn it around, and he blames JOHN KERRY because he cannot explain how President Bush can get us out of this mess in Iraq.

What is wrong with that picture? This is a decision by President Bush to invade before the inspections were completed, before the U.N. had an opportunity to join us, to invade before the facts were in. The invasion took place and our military did its best. They are the best in the world. They conquered Saddam Hussein, but they left us in a position of vulnerability, with no end in sight. That is the choice facing American voters on November 2.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

McCain amendment No. 3702, to add title VII of S. 2774, 9/11 Commission Report Implementation Act, related to transportation security.

Wyden amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.

Collins amendment No. 3705, to provide for homeland security grant coordination and simplification.

AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, last evening, on behalf of myself, Senator CARPER, and Senator LIEBERMAN, I offered an amendment to rewrite the formula for the Homeland Security Grant Program. The amendment we brought before the Senate was unanimously reported as a separate bill by the Governmental Affairs Committee.

We should always keep in mind that should there be another terrorist attack on our country, people will be calling 911; they will not be calling the Washington, DC, area code. It is our first responders—our firefighters, our police officers, our emergency medical personnel—who are always on the scene first. We know that from the tragic attacks of 9/11, and, as Secretary Ridge has pointed out many times, homeland security starts with the security of our hometowns. For this reason, we have come together in a bipartisan way, representing large States and small States, to draft the Homeland Security Grant Enhancement Act, and we have offered it as an amendment to this bill. It would streamline and strengthen the assistance we provide to our States, communities, and first responders who protect our homeland.

The underlying Homeland Security Act contains virtually no guidance on how the Department of Homeland Security is to assist State and local governments with their homeland security needs. In fact, the 187-page Homeland Security Act mentions the issue of grants to first responders in but a single paragraph. The decisions on how Federal dollars should be spent or how much money should be allocated to home were left to another day when Congress enacted that important legislation, but it is now time for Congress to finally address this critical issue.

We know that much of the burden for homeland security has fallen on the shoulders of State and local officials across America, those who are truly on the front lines. In crafting the amendment before us, the Governmental Affairs Committee listened first and foremost to our first responders. We held three hearings on this vital topic and negotiated for 2 years to produce the amendment that Senator CARPER, Senator LIEBERMAN, and I are offering. The bipartisan measure was approved by the Governmental Affairs Committee by a 16-to-0 vote, and it currently has 29 cosponsors, including the distinguished Presiding Officer.

There are several groups that are active with first responders who are supporting our legislation. They include the National Governor's Association, Advocates for EMS, National Council of State Legislators, Council of State Governments, the National Association of Counties, the National League of Cities, and the Fraternal Order of Police.

As you can see, Mr. President, our approach has widespread support. It is supported by Senators from big States, such as Michigan and Ohio—and I want to particularly commend the Senators from those States for their hard work on this legislation—and small States, such as my home State of Maine and the State of the Senator from Delaware.

The wide breadth of support demonstrates the balanced approach our amendment takes to homeland security funding. It recognizes that threat-based funding is a critical part of homeland security funding. It does so by almost tripling the homeland security funding awarded based on threat and risk. This has been a particular concern to Senator CLINTON, who has brought this issue before the Senate a couple of times.

The amendment, however, also recognizes that first responders in each and every State are on the front lines and have needs. Therefore, the bill maintains a minimum allocation for each State.

The legislation will also improve the coordination and the administration of homeland security funding by promoting one-stop shopping for homeland security funding opportunities. It establishes a clearinghouse to assist first responders and State and local governments in accessing homeland security grant information and other resources within the new department. This clearinghouse will help improve access to information, coordinate technical assistance for vulnerability and threat assessments, provide information regarding homeland security best practices, and compile information regarding homeland security equipment purchased with Federal funds.

Establishment of these improvements will mean first responders can spend more time training to save lives and less time filling out unnecessary paperwork.

This amendment will establish a fair and balanced approach to allocating this critical funding. I am very pleased to have worked with the Senator from Delaware on this and I yield to him for any comments he might have, unless, of course, the ranking member would like to speak first.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I appreciate the recognition. Senator COLLINS and I have to go a short walk to a meeting, so I take this opportunity and use it briefly to rise in support of the Collins-Carper amendment submitted by the chairman of the committee and the distinguished Senator from Delaware, who worked very hard on this very important topic and area before the 9/11 Commission Report was assigned to the Governmental Affairs Committee.

This is an important addition to the National Intelligence Reform Act, the underlying proposal that came out of our committee last week, because it would help ensure that in these dangerous times the needs of our States and local first responders are met in a reasonable and coordinated way.

In the past 3 years since September 11, beginning on September 11, our first responders and preventers have made real progress in boosting America's preparedness to deal with the threat of terrorism. But as an independent task force of the Council on Foreign Relations found last year: the United States has not reached a sufficient national level of emergency preparedness and remains dangerously unprepared to handle catastrophic attack on American soil—dangerously unprepared. That I take to refer particularly not to the law enforcers, who are the first preventers, but to the capacity of our total response system at the local and State level to respond to a catastrophic attack.

This amendment, unanimously approved by a total nonpartisan vote in our committee, is an important first step in ensuring that our local first responders get the resources they need.

First, this amendment simplifies the existing homeland security grant process by creating an interagency committee to coordinate Federal requirements for homeland security planning and reporting, and it eliminates redundancies. It would establish a clearinghouse to offer local communities one-stop shopping for information on available Federal grants.

Second and most important, this amendment would reform the way homeland security grant money is currently distributed.

In crafting these funding provisions, the committee acted consistent with the recommendation of the 9/11 Commission to significantly increase the amount of homeland security funding distributed based on threats but, the judgment we reached, not to eliminate a minimum amount to go to every State. The reason for that is unfortunately the reality of the terrorist threat and the nature of our terrorist enemies. Yes, they have shown they will strike at visible national symbols, that to some extent they will focus on big cities, but the fact is that anyone who pays attention to the terrorist mode of operating around the world will see what they also do is to strike at unpredictable, undefended, vulnerable targets.

Remember, these people do not hold themselves to any rules of civilized or humane behavior, so they have no hesitancy to put a bomb on a bus occupied by families, men, women, children; to attack a school and wantonly slaughter children, in some cases their teachers. In a reality such as this, gruesome and chilling as it is, the fact is every part of America needs some help from the Federal Government in getting itself prepared to prevent and respond, and that is exactly what this amendment would do.

I continue to believe that this part of our own domestic army of preventers and responders in the war on terrorism is not adequately funded. This amendment does not of itself change that, but it does represent a sensible bipartisan approach and goes a long way to ensuring that whatever funding we do provide—and I hope that number will increase—is allocated in a manner that is best designed to protect all of the American people.

I thank Senator COLLINS and Senator CARPER for the extraordinary work they did on this issue in our committee. Senator CARPER, characteristic of himself, took hold of a complicated problem with difficult political ramifications to it but a real critical national need attached to it and worked very hard to bring about this result, which I feel very strongly deserves the overwhelming support of Members of the Senate.

I thank the chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Delaware makes his comments, I ask unanimous consent that the Senator from Minnesota, Mr. COLEMAN, be added as a cosponsor to the underlying bill, S. 2845, and that he also be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, the Senator from Minnesota has been one of our most diligent committee members in attending all of the hearings we held throughout the August recess. He was an active member of the committee throughout the debate on this legislation, and I am very grateful to have his support and cosponsorship.

I say to the Senator from Connecticut that I think along with the cosponsorships we picked up yesterday, this is a sign that as people look at our legislation and learn more about it, it is gaining even more support.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, before the chairman of our committee and Senator LIEBERMAN head for their meeting, I want to say in plain view of everyone how proud I am of the leadership they have provided to our committee. At a time when much of Washington, DC, was taking the month of August off, they made sure that our committee did not. At a time when most Senators were scattered around the world, the country, and back in their own States, they made sure we were here, and not just for any purpose but to participate in a series of excellent hearings.

I believe, and correct me if I am wrong, we have had a total of eight hearings thus far in the last month on this subject, from all kinds of people within the CIA, folks who have been National Security Advisers, Secretaries of Defense, Secretaries of State, Secretaries of Homeland Security. We have heard from the Commissioners themselves, the cochairs of the Commission, and from their senior staff. It has been an extraordinary education. It has taken me a while to get my arms around these issues. As we finished our markup, I said to both Senator COLLINS and Senator LIEBERMAN that a lot had not been clear to me as we went through the course of those hearings, but as we went through the course of the markup a number of issues, questions that had not been in focus for me, came into focus.

I thank you for providing this extraordinary month and a half for us to prepare to offer this package to our colleagues in the Senate. You have done really good work. We are proud of you.

Mr. LIEBERMAN. Thank you.

Ms. COLLINS. Will the Senator yield on that point?

Mr. CARPER. I am happy to yield.

Ms. COLLINS. I thank the Senator for his generous comments. I know Senator LIEBERMAN joins me in commending the Senator from Delaware for his active participation in our hearings. I believe the Senator from Delaware, as the Senator from Minnesota, made an extraordinary effort to be there, to question the witnesses, and all of us now quote the Senator from Delaware in various places and occasions, in reminding our colleagues that:

> The main thing is to keep the main thing the main thing.

Those words have become inexorably linked to the debate on intelligence reform. We thank the Senator for that as well.

Mr. CARPER. Mr. President, the record should show those words should not be directly attributed to me. They are actually the words of a recently departed minister, Methodist minister from our State, Brooks Reynolds, who would have been 89 years old on election day. He used to give the opening prayer at the Delaware General Assembly. We would convene every January. Among the things he would say to all of us who would gather there in Dover in the legislative hall:

> The main thing is to keep the main thing the main thing.

With respect to the underlying legislation, we have done a good job of doing that. What we have come up with is legislation that I think is well designed to ensure that key decision-makers—be it the President or the President's Cabinet, those of us who serve in the House and Senate, those who serve in the intelligence communities themselves—that we have the information we need to have, we have it in a timely way, and that we have the information objectively. That will enable us to better protect this country from terrorism in the 21st century. That is the main thing, and I believe the legislation before us today really does help us keep the main thing the main thing.

I wish to say a word or two, if I may today, about the amendment Senator COLLINS and I have offered. It seeks to address the issue of how to allocate funds to first responders, and to also enable the system of distribution that we have to move forward with a little less difficulty, a bit more smoothly, and maybe somewhat more efficiently.

First, I wish to say how much I have enjoyed working with Senator COLLINS. We have worked on it well over a year, and to express thanks to my staff and especially to John Kilvington on my staff for the great work he has done with me and with Senator COLLINS's team.

What we seek to do with this amendment before us today, I say to my colleagues, is to make a series of much needed reforms to the state of the Homeland Security Grant Program. As many of my colleagues are aware, funding under the State Homeland Security Grant Program today is distributed somewhat arbitrarily. Much of the money that is made available for grants each year is distributed on a per capita basis. It is based on a formula that is actually included in the PATRIOT Act.

Some have criticized our current homeland security grant formula saying it shortchanges larger States such as New York that are at the most risk for attack. I agree. No one here, though, disputes the fact that States such as New York and California deserve the biggest share of Federal funds.

But let me say clearly that funding should not be based on population alone. This may come as a surprise to some of you from big States such as Minnesota or Wyoming, but my home State of Delaware is not very big but we still have major vulnerabilities. We have a significant port on the Delaware River, the Port of Wilmington. Through that port, frankly, more bananas come than any other port on the east coast—grapes, Chilean fruit, and steel. Delaware has been known through its history as the chemical capital of the world, home to major companies such as DuPont and Hercules and others. We have a number of plants that dot the landscape. Delaware is a financial center for our country, in downtown Wilmington, DE.

A lot of people go through Delaware. If you do, you probably know I–95 passes through Delaware, one of the busiest highways in the country. Interstate 495 does as well. The Northeast corridor for Amtrak passes through Delaware. Both freight railroads, CSX and Norfolk Southern, two of the busiest railroads in America, pass through Delaware.

To our east, we have the Delaware River, a heavily trafficked river with some cargo, including some hazardous cargo that goes through our States, between our State and New Jersey on that river. On the other side of the Delaware is New Jersey and there is a nuclear powerplant in Summit, NJ. All of these factors tend to make our State a not unattractive target for terrorists.

We need to make sure that whatever we do, we protect States such as Delaware that may not be the most populous but do have real safety and security concerns. I believe—I might be wrong, but I believe with this amendment we have found a way to do that without shortchanging our sister States around the country.

The 9/11 Commission rightly pointed out that the current grant formula simply does not direct the Federal Government's scarce homeland security resources to the States and localities that need it the most. They called on Congress to create a new formula based on an assessment of threats and vulnerabilities that take into account real risk factors such as population density and the presence of critical infrastructure.

Our amendment does just that. The formula we have crafted ensures that the majority of Federal first responders' aid each year goes to the States most vulnerable to attack. In my judgment and the judgment of my colleagues, our cosponsors, the formula is a fair one. It would ensure that big States such as New York and California and smaller, less populated States such as Delaware, or less populous States such as Wyoming or Minnesota, receive our fair share of Federal homeland security dollars.

Large States will do much better under this formula in the amendment than they do under current law. This is especially true for States with large, densely populated cities or those that are located along an international border. It is my hope that this amendment will also better account for needs in States such as Delaware that have small populations but are located in risky parts of the country and have other significant vulnerabilities.

In addition, our amendment gives the Secretary of Homeland Security the authority to distribute a portion of each year's grant funding directly to large cities such as New York or Washington, DC, where we are gathered today, to help them meet their unique security needs.

We do all of this while preserving the small State minimum set out in current law. This will ensure that small States such as ours will continue to receive the resources they need, that we need, to protect our citizens from potential terrorist attack.

In addition to these important formula changes which have been alluded to by both Senator COLLINS and Senator LIEBERMAN, our amendment makes this Homeland Security Grant Program much more user friendly.

I don't know if our Presiding Officer or my colleague from Minnesota talked to their Governors recently or their mayors. Senator COLEMAN was once a mayor so he could be talking to himself on this one, I suppose. But any of us talking to our Governors or mayors or first responders over the last couple of years know how inefficient this program can be and how frustrating it can be to deal with. Under the current system, anyone seeking a grant is faced with, believe it or not, a 12-step application process—12 steps. Once this process is complete, first responders then have to sit around and wait, sometimes for months, before they see that first dime.

Our amendment dramatically streamlines this process; shortening the 12-step application process to 2 steps, requiring that States pass grant funds down to the local level within 60 days of receipt. Our amendment also ensures that cities and local governments are involved in their State's planning and application process. Our amendment also includes an important provision giving States significant new flexibility to use first responder aid they receive to meet their most pressing security needs.

Under the current system, States are given funding in four categories: No. 1, planning; No. 2, training; No. 3, they can use this money for exercises, and, No. 4, for equipment purchases. The States must spend a certain amount of money in each category, even if their homeland security plan calls for a different spending plan.

We propose, on the other hand, to give States the ability to apply for a waiver that would allow them to use unspent training money, for example, to purchase needed equipment, if that is where their needs were to lie or, frankly, the converse could be true.

Finally, our amendment creates a one-stop shop within the Department of Homeland Security. That one-stop shop would enable applicants to obtain grant information and other assistance. It also lays the groundwork for future reforms by authorizing a major review of all existing homeland security-related grant programs.

As part of this review, an interagency committee will look at planning, will look at application and paperwork requirements in an effort to ensure that the different programs are coordinated and do not impose duplicative requirements on applicants. The committee would then make recommendations for changes aimed not at eliminating programs but at making sure all of those programs work together in a coordinated fashion with as small an administrative burden on applicants as possible.

In conclusion, this amendment is based on bipartisan legislation reported out of the Governmental Affairs Committee unanimously this past June. It is a product of more than a year of debate on that committee about how we could better serve our first responders. The amendment enjoys the support of Democrat and Republican Senators from both large States and from small States, and when we have the opportunity to vote on this amendment, I will certainly urge our colleagues to vote for its adoption.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I want to congratulate my colleague, the Senator from Delaware, for the outstanding work he has done on this amendment and, in fact, as the Senator from Maine noted, his work involved in the series of hearings that we had to allow us to come before this body with a piece of legislation that will make America safer.

If I may reflect first on the process of the underlying bill, we had a series of I believe eight hearings. Sometimes folks say we move too slow in these hallowed halls. There was a concern that in less than 2 months we would come before this body with a bill that provides major restructuring of the way in which we handle the threat of terrorism in this country, that some might say we moved too hastily. But one wouldn't say that if they observed the process.

Within those eight hearings, we had a wellspring of information. We heard from heads of the CIA in the 1970s, 1980s, and 1990s across party lines. I think of that hearing. We talked about the ''three wise men'' who came before

us. We heard from agents who were active in the field in hearings that were not open to the public in which in fact the names of the agents themselves were still kept confidential. We heard from members of the Commission. We heard from representatives of the families of the victims.

It was for me, relatively new in this body, who served as a mayor, as the Presiding Officer has served as a mayor, and involved in politics at what I call the bottom of the political food chain, a fascinating educational experience. I learned a lot. I think my colleagues, no matter how long they were in this body, learned a lot. We have all learned a lot in the post-September 11, 2001 world.

As a result of what we heard, we come before this body with some needed reform—reform that has broad bipartisan support. I believe the process we used represents the best of what this body is all about, working in a bipartisan way dealing with some difficult issues, issues of life and death, truly life and death, coming to some conclusions, and in the end making America a safer place.

I associate myself with the comments of my colleague from Delaware as he talked about the process because I shared that experience.

I also want to talk about the underlying amendment, the Collins-Lieberman-Carper amendment, again from the prospective of a former locally elected official who appreciates one-stop shopping. When I was dealing with licensing in the city of St. Paul, one of the things we did was set up one-stop shopping so folks didn't have to go to 16 different places to fill out where the application was, what had to be in it, who you had to talk to, and it made a difference. I talked with our consumers. I know because I talked to them. When you are mayor and go down the street, people will grab you by the elbow and tell you about the experience. They appreciated it.

With a matter as complex, as serious, and as profound as dealing with the issue of homeland security in a time when our Nation faces threats of terrorism, we managed in this amendment to do a number of things which I believe are very helpful. We simplified a process. We have taken something that was a 12-step process and made it a 2-step process.

We have accelerated the process requiring States to provide 80 percent for the homeland security resources they receive at the local level within 60 days without moving the money forward. There are needs out there. People deserve to know that the resources are there.

We provided flexibility, targeting the most vulnerable areas, and also making sure that all parts of the country and all States have an opportunity to do what needs to be done to provide a greater measure of safety against the threat of terrorism.

Minnesota is a big State. Wyoming is a big State geographically, but not a big State in population. Much of the area of Minnesota is rural. Yet within the State of Minnesota, which is a big State but not a highly-populated State, with about 5 million people, we have the Mall of America, probably one of the most frequented tourist places in the United States. Every year 35 million people visit the Mall of America.

We have, of course, the Mississippi River in Minnesota which starts as a little stream right up there in Itasca and becomes the great Mississippi of legend, of Mark Twain, and eventually finds its way to Louisiana and into the gulf.

Along the Mississippi, we have a nuclear powerplant on an Indian reservation, the Prairie Island Reservation right on the Mississippi River in Minnesota. We have Duluth, which is located on Lake Superior, which is the gateway to the Great Lakes and transatlantic shipping.

We have miles and miles of border between Minnesota and Canada, a border that is not heavily populated, that is easily crossed, a border which in certain conditions is pretty tough to police. It is pretty tough up in International Falls where it is minus 28 or 30 degrees Fahrenheit without wind chill. Border agents up there have to learn how to pull a trigger on a pistol when it is very cold. It is not that easy. They have to learn how to use snowmobiles and float planes, and all sorts of things that may not be seen in other parts of the country.

But we face challenges. Obviously, we heard from Delaware, and the Presiding Officer would be on the floor now talking about Wyoming. He would talk about the challenges that are faced there.

This is an amendment that provides the targeting of resources in the areas where clearly there is the greatest threat but provides the needed flexibility so that places such as International Falls in Minnesota or the Mall of America or a nuclear powerplant on the Mississippi River can also be protected.

This is an amendment that is a product of the process I talked about. It has bipartisan support. It has the support of Senators from large States and small States. It is something I believe my colleagues will and should overwhelmingly support.

I am honored to speak on behalf of this amendment and to urge its adoption. In doing so, I truly believe it will make this country a safer place and it will make it easier and make it quicker. It will make it much more practical for folks throughout this country to access the funds they need to provide a greater measure of protection against the threat of terrorism.

Mr. President, I yield the floor.

Mr. CARPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COLEMAN. 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. COLEMAN. Mr. President, I would like to address two provisions in the underlying bill that were the subject of much debate, much discussion during our hearings on the 9/11 Commission recommendations. One of them had to do with the recommendation as to whether the national intelligence director should serve at the pleasure of the President or should serve a fixed term.

The 9/11 Commission recommended that the national intelligence director serve at the pleasure of the President. Some observers, however, have suggested that making the NID serve a fixed term would help preserve the independence of the national intelligence director. The Collins-Lieberman bill creates a NID who will be appointed by the President, confirmed by the Senate, and who will serve at the pleasure of the President. This is one of those discussions where the words of the Senator from Delaware ring true: the importance of making sure we keep the main thing the main thing.

We had come before us, as I indicated earlier, three former Directors of the Central Intelligence Agency: William Webster, James Woolsey, and Stansfield Turner. Each of them testified that among all the powers of the NID and the variables we needed to consider when deciding whether to create a national intelligence director, the most important quality, the most important variable for the national intelligence director to be effective is to have the support of the President of the United States.

The national intelligence director will be responsible for overseeing a broad range of intelligence functions and operations in this country. His ability to provide that kind of leadership and direction in many ways will be contingent upon having the support of the Commander in Chief, having the support of the President of the United States.

Robert Mueller, who served a 10-year term as FBI Director, testified that the NID should serve at the pleasure of the President. Director Mueller distinguished the FBI, which is expected to be an independent investigative agency, from the office of the NID, which will be responsible for advising the President on intelligence matters, and that advice will be shaping the President's policy decisions. Among the responsibilities of the NID is to be the principal adviser to the President himself.

Some believe that having the NID serve a fixed term could help insulate the national intelligence director from political pressure. However, what it would do is to insulate the national intelligence director from the President. We cannot afford, in these difficult and

challenging times, at a time when America is under the threat of terrorist attack, to have the national intelligence director marginalized by a President who does not trust the national intelligence director.

The national intelligence director will be one of the most powerful individuals in the U.S. Government, and he will be one of the President's closest advisers. As such, the President has to be able to select his own national intelligence director. And all those in the intelligence operations, all those in other branches of Government who are involved in intelligence gathering, intelligence processing, and intelligence formulation of operation need to understand that the national intelligence director has the absolute confidence of the President of the United States.

There are a number of alternative mechanisms to protect the objectivity and the independence of the national intelligence director. But, again, I think it is critically important that the national intelligence director have the support of the President. And those thoughts are not just the thoughts of this Senator, but they were the expressed opinions of three former Directors of the Central Intelligence Agency who came before our committee and the opinion of the current head of the FBI who himself has a 10-year term.

One of the other issues that was the subject of a great deal of discussion and focus was what type of authority the national intelligence director should have to develop and execute the budget for national intelligence. It was said many times, whoever controls the money has the power.

We have made a judgment in this bill to have a strong national intelligence director, a national intelligence director who has the confidence of the President of the United States, but also a national intelligence director who will have control over the development of the budget for the national intelligence program, including the authority to coordinate, prepare, direct, and present to the President the annual budget for the national intelligence program.

This bill gives the NID the authority to manage and oversee the execution of the national intelligence program, including visibility and control over how money is spent. It ensures that the core national intelligence agencies—the CIA, NSA, NGA, NRO, FBI Office of Intelligence, and the Department of Homeland Security Directorate of Information Analysis and Infrastructure Protection—are entirely within the budgetary authority of the national intelligence director. And it gives the national intelligence director influence over the budgets of intelligence-related activities and organizations that are outside the national intelligence director.

Our approach is consistent with the recommendations of the 9/11 Commission, which said the NID must be given—and I quote—''control over the purse strings,'' including the power to submit a unified budget for national intelligence, to receive the appropriation for national intelligence, and to apportion the funds to the appropriate agencies in line with the budget.

The Commission viewed these budget authorities as absolutely essential to achieve the objectives of intelligence reform. One of the chairs of the Commission, Mr. Hamilton, said:

> We would not create the national intelligence director if he or she did not have strong budget authority.

Former Directors of the Central Intelligence Agency who testified before our committee also supported giving the national intelligence director strong budget authority.

William Webster, who was both head of the CIA and the FBI, said:

> Control of the budget is essential to effective management of the intelligence community.

James Woolsey, former Director of the CIA, said:

> If budget execution authority is given to the [national intelligence director], he will or she will have a much better ability to say to the Secretary of State or the Secretary of Defense, ''Look, I sympathize. I understand. I know this fluent Arabic linguist is a very rare asset, but you did not hear me. I really need her or him.''

Again, who controls the money has the power.

As Chairman Hamilton said: The Commission would not have created a national intelligence director if he or she did not have strong budget authority.

Senior officials in the Office of the Director of Central Intelligence also believe that stronger budget authority is needed in order for the national intelligence director to truly be in charge of the intelligence community.

John McLaughlin said the person responsible for the intelligence community should ''have full authority to determine, reprogram and execute all funding for the core national intelligence agencies, principally CIA, NSA, the NGA and NRO.''

On and on, the advice the committee received was very clear: If you want to have a strong national intelligence director, you must give him or her strong budget authority.

Consumers of intelligence also testified that it would be desirable for the national intelligence director to have strong budget authority. Secretary of State Colin Powell, at the hearing of our committee on September 13, 2004, said:

> The [Director of Central Intelligence] was there before, but the DCI did not have the kind of authority [needed]. And in this town, it's budget authority that counts. Can you move money? Can you set standards for people. So you have access to the President? The [national intelligence director] will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Some of those who have brought a different perspective have said that the Director of Central Intelligence already has the needed authority but simply has failed to use it, and that if budget execution authority is needed, it should be given to the national intelligence director by Executive order.

With respect to the NFIP budget, the testimony before our committee—much of it in closed session—demonstrated that the Director of Central Intelligence authorities in practice are considerably weaker than they might appear on paper. So what we heard was how things work in the real world. What we heard was the day-to-day reality of how authority can be used, how it can be challenged. If it is not crystal clear, if it is not absolutely clear, if it is not unequivocal, as laid out in this bill, then, in fact, it may not in practice be as strong as one would desire.

The testimony also demonstrated considerable confusion about the actual extent of the Director of Central Intelligence legal authority which I found to be quite interesting. We would have before us various members of the intelligence community, and there would actually be a cross-discussion going on as to whether there was, in fact, this authority that one person believed was there but that the other person didn't believe was there. What we do in this bill is to get rid of the confusion and make it clear. We clarify any ambiguity in the existing language and make unmistakably clear Congress's intent that the national intelligence director, not the Department heads, will have the final say in developing the national intelligence budget.

With respect to receiving the appropriation and budget execution, the Director of Central Intelligence clearly does not have these key authorities today. Neither the administration nor we believe these authorities could be given to the Director of Central Intelligence, much less the national intelligence director, which has not yet been created by Congress, without congressional action.

There is simply no excuse for Congress not to act. This bill provides the kind of action that was clearly laid out before our committee as needed, as supported by those both in the intelligence network and the system, those who are making the decisions and those who are working with the decisions that are being made.

I do hope this body supports the recommendation of the Commission, the recommendation that is part of the bill before us.

Mr. President, I ask unanimous consent that at 2:15, the Senate proceed to a vote in relation to the McCain amendment No. 3702, with no second degrees in order to the amendment prior to the vote; provided further that there be 2 minutes of debate equally divided prior to the vote. Finally, I ask consent that following the vote, Senator STEVENS be recognized in order to make a statement.

Mr. REID. Mr. President, would the Chair indicate, there are still two additional amendments that are pending?

The PRESIDING OFFICER. Under the Senator's request, there is just one amendment.

Mr. REID. I understand the unanimous consent request talks about one amendment, but if we dispose of that amendment, there would still be two amendments pending.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would hope that following Senator STEVENS's statement, we could make arrangements to vote on those two as early as possible this afternoon and move on to other matters on this bill. All of these matters have been debated thoroughly. I would hope that after that, the majority leader can arrange a time to vote on these amendments. We are ready over here. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. We will talk to the Members over the lunch hour and see if we can work this out.

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. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. SCHUMER. Mr. President, I am here today on the eve of the debate that will be occurring on Thursday evening. I know most Americans will be watching. I think they are probably the most important debates, certainly, since the Kennedy-Nixon debate, which was the first one.

The issue, of course, is related to the security of the country. I am going to focus my few remarks on security here at home, in terms of homeland security.

Whatever you think of the war on terror abroad—and there are many different views and we will hear some of those on Thursday night—my view—and I tend to be hawkish—is that hawks should be as angry or more angry with the President than doves, because the bottom line is that Iraq wasn't thought through. We don't have a plan and there is nowhere really to go. The idea of keeping faith and saying, well, there will be elections in January and that will make everything better, that is similar to the idea that we will win the war in 3 weeks and that will make everything better. It is simply not thought through and there are all these chimerical sort of wishes and hopes.

First, the election will not be held in many parts of the country. Second, I don't think it is going to make the basic problems go away. A devastating commentary on the war in Iraq is that we have been unable to spend money on infrastructure. One of the whole theories is that we were going to rebuild the country and show the Iraqis a better life. Because the terrorists who are there—who are despicable—have been able to do so much in terms of sabotage and criminal activities, in terms of taking those workers who would rebuild Iraq and treating them so brutally, it has made it basically impossible to rebuild. The President and his administration admitted as much when they took back the money for rebuilding and are now putting it into security.

Again, what everyone thinks about the war overseas—and there are many different views, and I believe JOHN KERRY will enunciate a view that is far more consonant with the American people than what President Bush has done so far. I say that as somebody who supported the $87 billion and the vote to go to war, because I believe we need a strong, aggressive foreign policy.

I believe the war on terror is the vital discussion of this decade and of our generation, probably. To win the war on terror, you need a good offense and a good defense. On defense, I regret to say, basically, this administration has not come close to doing what is necessary.

When you ask why, the bottom line is very simple: They don't want to spend the money. Their idea after idea after idea about air security, port security, rail security, truck security—we have the technology, not to make certain a terrorist attack doesn't occur but certainly to decrease the odds of it. When you go to the people in the agencies and ask why are you not doing this or that, they say: We don't have the money. When we come to the floor and argue about homeland security—as we just did when the Appropriations bill on homeland security came forward—we were told by my friend from Mississippi, the chairman, that we are spending enough. Let me tell you, we are not spending close to enough in any one of these areas.

Let's say, God willing, we manage to wipe out al-Qaida in the next year or two, and let's say the problems in Iraq subside—in my view, because KERRY will be elected and will handle them a lot better than President Bush has—we are still going to have new terrorist threats.

Terrorism can be described in a single sentence, which is that the very technology that has blessed our lives and accounted for so much of the prosperity we have seen over the last two decades has an evil underside; namely, that small groups of bad people can get ahold of that technology and use it for terrible purposes. So if al-Qaida is gone—and let's hope they will be—and if terrorism in Iraq greatly declines—and let's hope that occurs—there are going to be new groups that start using this terrorism and using it against us and trying to use it in our homeland. It could be Chechnians; maybe they will have a meeting and decide that instead of blowing up movie theaters and airplanes in Moscow, the real answer is to go after the United States. Maybe it will be East Timorese, who have been fighting for independence in east Asia. For all we know, it could be skinheads in Montana who decide to do this—a couple of them did it in Oklahoma City—but in a more structured and destructive way, God forbid. So we cannot even keep track of the various groups that could hurt us.

The sad fact is, if 500 random people around the world, with some leadership, were injected with an evil virus and they were to decide, fanatically, they would devote the next 5 years of their lives to figuring out how to hurt America and try to implement it, the odds are too high that they could succeed.

So do we need a good offense? Yes, we do. Do we need a good defense? You bet. On area after area after area, we are not doing enough. Let me catalog a few.

Air security, here we are doing something of a better job than we have done in the past. The screeners, for all the problems they have, are a lot better than they were before 9/11 when they were paid minimum wage by private security companies. Some didn't speak English adequately. We are inspecting cargo.

But probably the No. 1 way terrorists could now hurt us as we travel in the air is by using shoulder-held missiles. We know the terrorists have them, al-Qaida has them, and they are available on the black market. We are slow walking any attempt to put on our commercial airplanes the mechanism to deflect the rockets, the heat-seeking rockets that emerge from shoulder-held missiles.

Mr. REID. Will the Senator yield?

Mr. SCHUMER. Yes.

Mr. REID. Is the Senator aware that on at least five different occasions we have had votes on the Senate floor where we have asked for increased funding for homeland security and the Bush people have turned it down through various ways? I amplify that by saying these are all set forth in Senator BYRD's best-selling book. Is the Senator aware we tried to get money for real homeland security—not security in Iraq but security for the American people—and this has been turned down; is he aware of that?

Mr. SCHUMER. I am aware of it, and it frustrates me to no end. Senator BYRD has had amendments, Senator MURRAY has had amendments, Senator CORZINE has had amendments, Senator CLINTON and I have had amendments, one after the other, and they are turned down.

I say to my colleague from Nevada, I have asked people in the administration, both present and former—a few who quit in disgust—are President Bush and his people not aware of the dangers? They basically say, no, they are aware of the dangers, but they don't want to spend any money here at home. They would rather have all the money go to tax cuts, and so it is not that they do nothing in each of these

areas; they do the bare minimum: Let's have a study and let it take 2 years. Let's decide on what to do down the road.

For every year we wait, we become more vulnerable.

Mr. REID. Being more specific, is the Senator aware we have tried to address rail security and Amtrak security? Turned down. On several occasions, port security, turned down. Is he aware we have tried to get specific money to first responders? Turned down. The Senator is aware of this and other measures—for example, hazardous chemicals security, which Senator CORZINE has pushed so much. The Senator is aware of each of these, and we have had votes and have been turned down on the floor by the majority on all requests.

Mr. SCHUMER. Mr. President, I am aware, to answer my good friend from Nevada, of this. I am frustrated by it, and, frankly, I am befuddled by it because an administration that is so aggressive when it comes to taking the war overseas and will ask us for billions and billions more at the drop of a hat——

The PRESIDING OFFICER. All time has expired.

Mr. SCHUMER. I thank the Presiding Officer.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. THOMAS. 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. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3702

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the McCain amendment.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, this amendment is designed to address transportation security-related recommendations of the 9/11 Commission. The amendment is almost identical to Title VII of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which Senator LIEBERMAN and I introduced earlier this month.

The amendment implements the Commission's recommendations on transportation security in the following three ways: One, establishing a national strategy for transportation security; two, assigning responsibility for the ''no-fly list'' to the Transportation Security Administration; and, three, enhancing passenger and cargo screening.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring we move forward in addressing the vulnerabilities in our transportation systems. These provisions should not be controversial, and I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment which I cosponsored with Senator MCCAIN. This is the first of several he and I will be introducing, along with other Members, which would implement recommendations of the 9/11 Commission not included in the underlying bill that Senator COLLINS and I have introduced which focuses on intelligence reform.

Mr. ROCKEFELLER. Mr. President, I am pleased to support my colleague's amendment to implement the 9/11 Commission's recommendations on improving aviation security. Senator MCCAIN and I have worked closely over the last several years to strengthen our aviation security network. Although I strongly agree with the 9/11 Commission's recommendations for improving aviation security, I believe that Congress must go further than the Commission's recommendations if we are to continue to improve our aviation security system.

It is for this reason that I have filed my bill, S. 2393, the Aviation Security Advancement Act, as an amendment to this legislation as well. I would note that Senator MCCAIN is a cosponsor of my bill. In addition, to incorporating the recommendations of the 9/11 Commission, my bill also includes specific requirements to improve air cargo and general aviation security, which I have long felt to be significant gaps in our security system and the 9/11 Commission specifically cited as a weakness. My bill also authorizes funding for these new security requirements.

This legislation was passed unanimously out of the Commerce Committee last week. This legislation is also supported by the airline industry. I hope that the Senate will consider this legislation later this week. My amendment is cosponsored by Senators HOLLINGS, LAUTENBERG, SNOWE, and SCHUMER.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 3702.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 97, nays, 0, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—97

Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	
Dodd	Lott	

NOT VOTING—3

Akaka	Edwards	Kerry

The amendment (No. 3702) was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it is my understanding that Senator STEVENS no longer needs to use his time at this time. I believe he will be speaking later. So I ask unanimous consent to vitiate the order that reserved time for Senator STEVENS and instead have Senator HUTCHISON recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 3711

Mrs. HUTCHISON. Mr. President, I call up amendment No. 3711, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3711.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for air cargo safety, and for other purposes)

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44925. Regular inspections of air cargo shipping facilities

''The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44925. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44926. Air cargo security

''(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

''44926. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise today to offer the Air Cargo Security Act as an amendment to the Intelligence Reform Act. This is a measure that we need to pass to answer some of the criticisms in the 9/11 Commission Report regarding cargo security.

I am going to talk further about this bill, but I would like to offer Senator MCCAIN some of the time to also talk because he was one of the cosponsors. It went through the Commerce Committee with his chairmanship. We all agree this is a bill that is needed to add to the security that is in the bill in accordance with the 9/11 Commission Report.

I yield to Senator MCCAIN for his remarks, and then I will finish my presentation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Texas. She has been on this issue for at least 3 years that I know of. We passed this bill twice through the Senate. Under the chairmanship of Senator HUTCHISON, we had extensive hearings on this issue in the Commerce Committee.

I believe this is a very important issue. Senator HUTCHISON has many important aviation assets in her State, including major airports that are not only for passengers but for ports of entry as well.

I say to Senator HUTCHISON, thank you, because I think this is a very important bill. I tell my colleagues, it has been passed twice through the Senate. It is unfortunate that we have to go back and revisit it.

Finally, we made a commitment that we would try to address all 41 of the recommendations of the 9/11 Commission, not always in a positive fashion but at least have them addressed. This is one of the recommendations of the 9/11 Commission.

I thank Senator HUTCHISON, and I urge my colleagues to support this very important amendment. Air cargo, according to many experts, is a subject that certainly needs increased security and increased attention. I think this amendment does that. I thank my colleague from Texas, Senator HUTCHISON.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Commerce Committee, Senator MCCAIN, for adding his support to this bill. We would not have gotten it through the Commerce Committee without his support. I think it adds immeasurably to the bill that is before us today.

Congressional action following 9/11 quickly created the Transportation Security Administration to address the appalling security gaps exposed by terrorists. We took drastic but appropriate steps to considerably increase security of our airports and planes, and 3 years later we are light-years ahead of where we were on that horrific day.

I am pleased that the 9/11 Commission raises issues that are similar to those I have discussed since we enacted the Aviation and Transportation Security Act. The Commission report states:

> Concerns also remain regarding the screening and transport of checked bags and cargo. More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

I have worked since 2001 to enact stringent air cargo security standards and, along with Senator FEINSTEIN, introduced the Air Cargo Security Act to create a comprehensive system to secure shippers, freight forwarders, and carriers. The Senate has twice passed this bill unanimously, but it remains stalled in the House of Representatives.

The bottom line is this: Are we safer than on September 11? Absolutely. But have we done enough? Not yet. So I think we can do more. I think this is an opportunity for us to address this issue.

The Air Cargo Security Act will make a difference in our Nation's air security. One thing we have not provided since 9/11 is security in the belly of the aircraft equal to protections for passenger areas and airports. Cargo is shipped on passenger aircraft, in some cases, without being screened. That is why we need this amendment.

The Air Cargo Security Act would establish a reliable known-shipper program, mandate inspections of cargo facilities, and direct the Transportation Security Agency to work with foreign countries to institute regular inspections at facilities that bring cargo into the United States.

The legislation would develop a training program for air cargo handlers and give TSA the power to revoke the license of a shipper or freight forwarder whose practices are unsound. These provisions will go a long way toward further securing aircraft in our country. All of us want America to have the safest aviation system in the world. Closing the cargo loophole is an important step.

There is no doubt in my mind that the traveling public is considerably safer. We have made changes to ensure our screeners undergo background checks, training, and testing. Checked bags are scrutinized, flight crew training is constantly being improved, and we are traveling in a more secure system. But we must address the cargo issue.

Mr. President, 22 percent of all air cargo in the United States is carried on passenger flights, only a tiny fraction of which is inspected.

Beyond transport on passenger planes, there are other issues in the cargo arena. Identification cards used by workers are generally not secured with fingerprints or other biometric identifiers. Background checks for cargo employees are still inadequate.

Perhaps the weakest link in the cargo security chain is the freight forwarder. These are the middlemen who collect cargo from the shippers and deliver it to the air carrier. Regulations governing these companies are lax, and the TSA is finding security violations when it conducts inspections. Under current law, however, TSA lacks the authority to revoke the shipping privileges of freight forwarders that repeatedly violate security procedures. This air cargo security amendment would give TSA that power.

Air cargo security is not a new problem. In 1988, Pan Am 103 went down over Lockerbie, Scotland, because of explosives planted inside a radio in the cargo hold of a passenger airplane. The 1996 Valujet crash in the Everglades was caused by high-pressure tanks that never should have been put on a passenger aircraft in the first place.

My amendment will strengthen air cargo security on all commercial flights. It establishes a more reliable known shipper program by requiring inspections of facilities, creating an accessible shipper database, and providing for tamper-proof identification cards for airport personnel. It gives TSA the tools required to hold shippers accountable for the contents they ship by allowing the administration to revoke the license of a shipper or freight forwarder engaged in unsound or illegal practices. This is the most important part of the bill. The TSA has told me time and again they need to have this capability in order to revoke licenses when they find an unsafe situation.

I have had the support of my colleagues, such as Senator MCCAIN. Senator LOTT, the chairman of the Aviation Subcommittee, has worked with me on this bill. We have passed this bill twice in the Senate. It is a bill we have looked at, we have vetted. We have had hearings.

I see my colleague Senator LOTT, the chairman of the Aviation Subcommittee, is on the floor of the Senate. He knows this bill. He worked with me to perfect it. If we can put this amendment on this very important piece of legislation, it will add immeasurably to our aviation security. We will have the most secure aviation system in the world with this amendment on this particular legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I congratulate the Senator from Texas for her determination in this area. It is one of the places where there was a gap in our aviation security. It is one that she has been working on, thinking about, going back to the last Congress. I think one of the last things we did in the last Congress was the Senate let this issue go through, but we didn't get it completed. She has continued to work on it. There were some concerns. Those concerns have been worked on and developed and straightened out, and this is a good piece of legislation. It passed the full Commerce Committee overwhelmingly last week. It is supported by the industry. I want the record to show that it would not be happening if it were not for her determination and her leadership. It is good legislation.

The title of this bill is National Intelligence Reform Act. I want us to concentrate on the intelligence area and the reforms that are necessary to give the national intelligence director the real strength he or she may need to make sure our intelligence community does its job. It talks about the national counterintelligence center. This was done at the recommendation of the 9/11 Commission for intelligence and security reforms. So while I don't want this to just become a debate about various

security areas, I would like us to focus on intelligence. This is an area where there clearly was a gap. This is an area where thoughtful legislation was available. I believe it is appropriate to be added.

I hope we will support the chairman of the committee and the ranking member who have worked hard to get this legislation through in a reasonable time. We will have some good debates, and we will have some disagreements. We will have some votes. But at the end of the day, we need to get this done because the Commission has made it clear where there are gaps and where there are problems, both in the executive branch and in the legislative branch. We also have to have the follow-on congressional reforms that will allow us to do a better job on oversight because we are part of the problem.

For those who have questions or have concerns or have amendments, my argument is, come forth. Let's have the amendments. Let's debate them in the light of day. Let's have a full debate and let's vote. But let's get this done because this is about real issues. A lot of times we debate, we vote on things that won't affect our lives immediately or affect people's ability to do the job under national security. But this legislation is about lives. It is about what happened on 9/11. It is about what will happen again if we don't step up to this important issue and make sure that our executive branch is set up in such a way as to do the job, that they have the right chain of command and that somebody is in charge, somebody who reports only to the President, somebody who can make a decision about the placement of satellites, somebody who will give us the information we need to know, not only about how much money is spent but where it is spent.

That has been one of our problems. The Congress has not been putting money in many instances where it should have gone so that our intelligence community would have had what they needed to do the job. Just this very day, we understand the FBI does not have the linguists they need to translate intercepts. Now it has become so voluminous it is uncontrollable. That is scary. But it is a real problem. We are not going to solve it just with this bill or just in this week. If we don't begin now, it will make the day even more inevitable or closer that we are going to have another disaster on our hands.

I am here today to tell the committee members I support their effort. They have done a good job. We can make it stronger, I believe. But I am going to be supporting getting this work completed.

I thank the chairman of the committee and I thank the sponsor of this amendment for the work she has done on this cargo security issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Aviation Subcommittee, the Senator from Mississippi. In fact, one of the unanimous consents we had when we took this intelligence reform bill to the floor was that all the amendments would have to be relevant to the 9/11 Commission. The amendment before us is relevant. I think because the Senate has acted on this, it will be a valuable contribution to the bill.

I appreciate the help and counsel of the Senator from Mississippi. I thank the distinguished chairman and ranking member of the Governmental Affairs Committee for bringing this bill to the Senate floor. We will pass this bill, and it will be a good bill. We are all going to work together to make that happen, which the distinguished chairman and ranking member have already proven.

I ask for the yeas and nays at the appropriate time for whenever it can be scheduled along the lines that the chairman and ranking member would schedule.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Mississippi has to leave the floor, I want to thank him for his advice and his support as we bring this very important legislation before the Senate for consideration. I very much value the advice and support of the Senator, and I appreciate all he is doing to help move this legislation forward. He has been a very early voice in identifying the flaws in our current intelligence system and has been stalwart in his support for significant reform. I thank the Senator from Mississippi.

I also commend the Senator from Texas for her continued effort to examine the recommendations of the 9/11 Commission and to pursue legislative solutions, particularly in the area of improving the security of cargo and general aviation security in general. Senator HUTCHISON has been a longtime leader in this area. Her amendment encompasses a significant portion of S. 165 that the Senate passed by unanimous consent in May. I commend her for her foresight in recognizing areas of concern that have been singled out by the 9/11 Commission.

In the Commission's report, for example, the Commission noted that:

> Major vulnerabilities still exist in cargo and general aviation security.

The Commission went on to say that:

> The TSA and Congress must give priority attention to improving the ability of screening checkpoints to detect explosives.

The Commission says:

> More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

These are all areas of weakness identified by the Commission that the Senator from Texas would address in her amendment. It will assist in implementing several of the Commission's recommendations and as a whole will help to make our Nation's air passengers, air carriers, and air cargo more secure. I would note that the Department of Homeland Security has no objections to the Senator's amendment. When the roll call does occur, I will be urging our colleagues to support her efforts.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment of Senator HUTCHISON. I thank her for proposing it. She was ahead of her time because she has been on this case, along with members of the Commerce Committee, at least since March of last year, when the bill came out of the Commerce Committee; in fact, the Senate passed this bill unanimously in May of 2003.

Unfortunately, there has been no action that meets up with this bill in the House. So Senator HUTCHISON is quite right to introduce this as an amendment to our underlying reform of the intelligence community. This is directly relevant to the 9/11 Commission's conclusion that ''major vulnerability still exists in cargo and general aviation security. These, together within adequate screening and access controls, continue to present aviation security challenges.'' That comes from the 9/11 Commission.

The Commission concluded that we are safer than we were on September 11, 2001, but we are not yet safe. This underlying bill is aimed at reforming our intelligence community so we will be safe, so we can see the threats coming at us, hear them, and stop them before the terrorists are able to strike, but also that we may adopt other provisions of the 9/11 Commission report.

Senator MCCAIN and I introduced an amendment that was the first to pass a short while ago. I hope this amendment will pass as well, because it tightens existing weaknesses, loopholes in the screening of cargo transported in passenger aircraft, opening up a vulnerability that we all fear terrorists may exploit to strike at us.

I thank the Senator from Texas for not only being foresighted last year in seeing this weakness in our defenses to terrorism but for coming forth and introducing this amendment. It will strengthen the bill Senator COLLINS and I and other members of the Governmental Affairs Committee have brought out and, therefore, I urge its adoption.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are making very good progress on this significant bill that does focus on the

safety and security of the American people. This morning the Democratic leader and I opened up stressing the importance of making very efficient use of our time on the floor.

A lot has been accomplished even since this morning, but we have a lot to do. This morning the leadership on both sides of the aisle talked, and we have talked in our caucuses, of the importance of collecting today all of the amendments that might potentially be offered on this bill. People have been studying the issue since August. The bill was marked up in committee in a very thorough way. A lot of amendments were offered and debated, some of which will be debated again on the floor. Because we need to finish the bill this week, if at all possible, it means, given the fact that there are a lot of evening commitments which will preclude us from doing a lot of voting tonight, we have to get this universe of amendments today.

Thus, I ask all of our colleagues to give us, through the managers, their potential amendments today, and if they plan on offering amendments, we absolutely must have them today.

We are not looking for amendments, but if people have serious amendments they feel need to be debated, if we have that list, and shortly thereafter—and it would be in all likelihood some time tomorrow—we will ask to have the complete language of each of those amendments.

The initial reaction by some is: you are moving too fast. Again, this is something we announced several weeks ago, that we would be going to the bill yesterday. We have made progress. The bill has been out, and people have had time to address it. We ask people over the next hour or couple of hours to let us know what amendments they may want to offer so we can have that list, and then shortly thereafter—not tonight, but shortly thereafter—we will have a deadline by which we need to have those amendments, to have the language. It is the only way we will have an orderly process to address the substance of this very important bill.

Mr. REID. Mr. President, will the Republican leader yield?

Mr. FRIST. I will.

Mr. REID. Mr. President, Senator DASCHLE announced in our caucus that he was in agreement with the majority leader. In conjunction with the Republican cloakroom, we are going to hotline this and tentatively have 9:30 or 10 o'clock in the morning—whenever the two cloakrooms agree they can get their work done, we will have a time for Members to let us know what amendments they might want to offer.

Senator DASCHLE is always very cautious to make sure we have ample time to offer amendments, but this is an extraordinary piece of legislation, and Senator DASCHLE agrees with the Republican leader that we should set a time shortly thereafter, either tomorrow evening—or I assume tomorrow evening, when Members will actually have to file their amendments.

The concept of the majority leader is certainly one with which Senator DASCHLE agrees. So we are ready to have our hotline go out, and theirs. We will look at amendments in the morning and find out what the universe of those amendments is, and then those people are going to have to step forward and offer amendments at a later time and enter into a consent agreement if at all possible later on tomorrow.

Mr. FRIST. Good. Mr. President, as you can hear, this is a bipartisan effort, with full cooperation back and forth between the managers and the leadership. We felt it was important to restate the sense of efficiency with which we have to address this bill. That is what we would like to see happen.

Again, please let us know your amendments in the next several hours.

Mr. President, I ask unanimous consent that the vote occur in relation to the pending amendment, that is, the Hutchison amendment No. 3711, at 4:30 p.m. today, with no amendments in order to the amendment prior to the vote; further, that there be 2 minutes equally divided for closing remarks prior to the vote.

Mr. REID. Reserving the right to object, if the leader can withhold for a minute, unless there is something that would cause us to vote at 4:30 p.m., we might be able to get that done a half hour earlier.

Mr. FRIST. From our side, because of various commitments, 4:30 p.m. is the best time.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, part of the scheduling is to do just that, so we can have another amendment fully considered and then yet even another amendment. For planning purposes, 4:30 p.m. seems to be the most appropriate time. We will continue to debate and vote on amendments. Then hopefully by 4:30 p.m., we will be able to schedule additional votes as well.

Again, I encourage all Members to come forward now and notify us of their amendments and to work through the managers to offer appropriate amendments.

Mr. REID. Mr. President, if the distinguished majority leader is finished, Senator NELSON is here and wishes to be recognized for 5 minutes to talk about the situation in Florida. Is that all right with the two managers?

Mr. LIEBERMAN. Mr. President, if I might say a word before that and then I will be happy to yield the floor to Senator NELSON. Maybe I should yield to the chairman who will probably say the same thing I will be saying.

I am very grateful to the Senate majority leader and to the Senate Democratic leader for this agreement and for the pace they are setting for consideration of this bill on a bipartisan basis. These are not ordinary times. This is not ordinary legislation. It goes to the heart of our security. We want to have thoughtful debate.

The chairman of the committee, Senator COLLINS, and I found in the committee that when we let some time for debate occur, people came to very thoughtful conclusions, totally without regard to party. The votes on all the amendments went all around the lot. I think people ultimately felt good about the process.

By setting these deadlines now for amendments to be noticed and then filed, we are going to expedite exactly that kind of thoughtful consideration so we can get this done with the same feeling of, well, confidence that we are doing the right thing. We are not only doing something we need to do quickly, but we are doing it the right way. So I thank the majority leader and Senator DASCHLE for their help on that matter and the help they have given to Senator COLLINS and me.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I, too, thank our leaders for their cooperation in moving this bill forward. The process they have outlined is a fair one. It will help us know how many amendments there are, and we will work with the sponsors of those amendments to ensure adequate debate.

If the Senator from Florida could tell me how much time he anticipates needing.

Mr. NELSON of Florida. Mr. President, if I take 1 minute per hurricane in Florida, that would be a total of 4 minutes.

Ms. COLLINS. Mr. President, we would be happy, in light of the devastation to his State, to give the Senator from Florida 10 minutes, if that would be helpful.

Mr. NELSON of Florida. Mr. President, to the distinguished Senator from Maine, it will not be necessary for 10 minutes, but the Chair of the committee is very gracious.

It seems all I talk about on the floor of the Senate is the hurricanes that have ravaged Florida. I would like to say to the leadership of the committee, I support their legislation. I am looking forward to voting for it. They have done a magnificent job. It is very timely, and I hope the wisdom they have displayed will be displayed by the House of Representatives so we can get a quick agreement and a conference and go about the process of reforming our intelligence apparatus. My congratulations.

FLORIDA HURRICANES

It does seem that I have spoken over and over about hurricanes and about the need for disaster assistance. Indeed, I am making that plea again. When we passed the Department of Homeland Security funding bill 2 weeks ago, the chairman of the Appropriations Committee had committed, in a colloquy on the Senate floor, that he would address it. I take him at his word, and I am sure his word is good.

Now that the President has requested additional funds, the question for us

and Florida is speed in enacting this legislation quickly so that money can get to the people who desperately need it in direct, outright FEMA grants. They need assistance to rebuild their homes. They need Small Business Administration loans so that they can rebuild their lives and their businesses. Then there are a myriad of Federal disaster assistance programs to local governments so that we can rebuild our communities, so that we can pick up the debris.

There is one part of Florida where debris is all over our communities from three hurricanes that have hit the same place. We need to rebuild our roads and bridges, our airports, our military facilities, and NASA at the Kennedy Space Center. So time is of the essence, and I implore our leadership to get that message through to the White House and to the leadership at the other end of this Capitol to get these funds.

It is the intention of the chairman of the Appropriations Committee, who just told me this a few minutes ago, to attach this money to the Homeland Security bill, but if that bill gets hung up for whatever reason, then this emergency funding needs to come out of here like a rocket taking off at the Cape Canaveral Air Force Station so that it can get to our people.

Needless to say, after two hits, one wonders just what is in store, and how they are going to pick up the pieces of their lives. But when three hit, and then four, one can imagine how distressed our people are. Help us. We need speed. We need action now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following cosponsors be added to Collins-Carper-Lieberman-Coleman amendment No. 3705: Senators VOINOVICH, LEAHY, AKAKA, ROCKEFELLER, NELSON of Nebraska, and HAGEL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, Senator VOINOVICH, along with Senator LEVIN, was very instrumental in helping to draft the compromise represented in this amendment. I talked earlier about the efforts of the Senator from Delaware and the Senator from Connecticut, but I also wanted to acknowledge that Senator VOINOVICH and Senator LEVIN worked very hard to help us strike the right balance in allocating funding so that large States with high-threat areas would receive additional funding. Yet we wanted to make sure that we recognize that every State, regardless of size or population, has certain vulnerabilities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3706

Mr. SPECTER. Mr. President, I call up amendment No. 3706 on behalf of Senator SHELBY, Senator ROBERTS, Senator BOND, Senator WYDEN, Senator BAYH, Senator FEINSTEIN, and myself.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, Mr. WYDEN, Mr. BAYH, and Mrs. FEINSTEIN, proposes an amendment numbered 3706.

Mr. SPECTER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SPECTER. Mr. President, this is one of two amendments which I intend to offer to strengthen the position of the national intelligence director. At the outset, I join many others in complimenting the chairwoman, Senator COLLINS, and the ranking member, Senator LIEBERMAN, for their leadership and their outstanding work in presenting the bill which is now on the floor.

This measure is a long time in coming for decision by the Congress. In my view, had there been a strong national intelligence director in existence prior to September 11, 2001, the attack on 9/11 might well have been prevented. There were many indicators present. Had they all been put together, I think there is a good chance we could have avoided the calamity of that day.

There is a famous FBI report from Phoenix about this suspicious character who wanted to learn how to fly an airplane but who was not interested in takeoffs or landings. That information never got to the appropriate authority in headquarters at the FBI. There were two al-Qaida suspects in Kuala Lumpur known to the Central Intelligence Agency, information not communicated to the INS, to Immigration, so that those two al-Qaida agents came into the United States and were among the 19 hijackers who perpetrated the atrocities of 9/11.

There was an extensive investigation conducted by the Minneapolis office of the FBI, the famous 13-page, single-spaced memorandum by special agent Coleen Rowley about Zacarias Moussaoui. Had those leads been followed, had there been an application for a warrant under the Foreign Intelligence Surveillance Act using the right standard—the FBI used the wrong standard—that would have produced a great deal of information which could have, in combination with other information, been pieced together to have warned us of the impending attack.

There is the information from NSA, where there was the tip that something was going to happen on 9/11 which was either not translated or not communicated to the Intelligence Committee.

There had been the information about Murad, an al-Qaida operative back in 1996, and his plans to fly an airplane into the CIA.

Those are only some of the threats. In combination and along with others, had we had all the information together, had we known what could have been pieced together, I think the likelihood is present that 9/11 could have been prevented.

During my tenure as chairman of the Senate Intelligence Committee during the 104th Congress, the Intelligence Committee reported a bill, S. 1718, which sought to lodge effective power in the Director of Central Intelligence. That position theoretically was in charge of all the intelligence community but, because of lack of authority, lack of budget control, the Director of the Central Intelligence Agency was never able to carry out the role of being the unifier, the real leader of the intelligence community.

In section 707 of that bill, it provided for:

Enhancement of authority of Director of Central Intelligence to manage, budget, personnel, and activities of the intelligence community.

On a cross referral, by the time it got to the Armed Services Committee, the substance was taken out. There was a big turf battle and the effort to lodge authority in the Director of CIA to do effective direction and management of the Central Intelligence Agency went to naught.

Thirty days after 9/11, Senator LIEBERMAN and I introduced legislation to create the Department of Homeland Security. That was on October 11 of 2001. When special agent Coleen Rowley testified before the Judiciary Committee in June of 2002, there was finally impetus to get support from the administration to move ahead with a Department of Homeland Security, and when the matter was debated on the floor of the Senate, the effort was made to vest authority in the Secretary of Homeland Security to direct other intelligence agencies. It seemed to us that when we were creating a new department, Homeland Security, this was an opportune time to pick up the strands of what had been attempted by S. 1718 back in 1996, and by many others.

It wasn't my idea alone. The Scowcroft Commission had come up with similar recommendations. Others had called for real power and real authority in a national director. It seemed to us that that was the time, with the new Department of Homeland Security, to give this effective power to the newly created Secretary of Homeland Security.

Our efforts, again, were unsuccessful because of the turf battles, because of the interests of the CIA and the Department of Intelligence, DIA, Defense Intelligence Agency, and the Department of Defense and the FBI, and the

other agencies to protect their own turf.

In October of 2002, the House of Representatives passed a bill and went home leaving the Senate with the alternative of either taking the bill or letting the matter go over until the next year. I was prepared at that time to offer the amendment to give the Secretary of Homeland Security authority to direct some real power. After talking to Secretary Ridge, talking with the Vice President, and talking with the President, rather than have no bill at all, it was decided to proceed and let the matter stand without having that kind of authority for the Secretary of Homeland Security.

There the matter languished until the families of the victims of September 11 became a powerful advocacy group, which led to the creation of the 9/11 Commission, and the 9/11 Commission report was filed in July of this year. There was very substantial momentum finally to create a national intelligence director with some real authority to really manage the entire community.

Senator MCCAIN, Senator LIEBERMAN, Senator BAYH, and I have produced a bill as had been recommended by the 9/11 Commission and then the Governmental Affairs Committee proceeded to have hearings, came back after the recess in late July, had hearings in August, marked up the bill, and passed it out of committee last week. So it is now on the floor in a context where there is considerable public pressure created by the 9/11 Commission report and what the families of the victims have done. And the momentum is present.

There has been very substantial opposition to moving at this time. There are those who say this legislation is precipitous, that it ought not to be passed on the eve of an election, that we have more of an eye on 11/2, the election date, than we have on 9/11.

I reject those contentions. This issue has been under study for decades, and personally on my behalf since I spent 8 years on the Intelligence Committee and chaired the committee during the 104th Congress.

The 9/11 Commission unanimously and emphatically has called for the creation of a national intelligence director. It is my view that is a proposition whose time has come.

When I offered the amendment in committee, which was rejected although we received five votes in the committee, there was very intense lobbying coming, as I understand it—you can never present competent evidence which would stand up in court but a lot of lobbying from the protectors of their turf.

My amendment to create the strength of the national intelligence director was deferred until this day. It is my hope and expectation that from this bill we will have a national intelligence director if it is the one proposed by amendment or if it is the one which is in the bill which has been reported by the committee.

It is my conclusion after very substantial study and after very substantial thought and after very substantial consideration that we need a very strong national intelligence director. We need an independent national intelligence director who will stand up to the executive branch, who will stand up to the Congress, who will tell the Congress exactly what is needed by way of resources, and who will have the stature and strength to get that job done.

There is an enormous controversy about the resolution to authorize the use of force which Congress passed and the President acted on—a lot of concern about the adequacy of the intelligence which led to that judgment, the 77 votes in this body joined by a majority of Democrats as well as Republicans. But there is no doubt that however one views the resolution for use of force, it would have been highly desirable to have better intelligence.

The amendment which is embodied in amendment No. 3706 would give substantial additional authority to the national intelligence director than is contained in the committee bill. It would put the CIA under the national intelligence director. The national intelligence director would have the authority to manage and oversee the intelligence community, including the CIA, the NSA, the National Security Agency, the NRO, the National Reconnaissance Office, the NGA, the National Geospacial Agency, and national collection from the Defense Intelligence Agency leaving tactical intelligence within the Department of Defense as it is now.

Valid considerations have been raised that tactical intelligence ought to be left in the Department of Defense so the Department of Defense can carry out its functions. My amendment would leave that important facet with the Department of Defense.

The national intelligence director under the committee bill has budget authority over the Federal Bureau of Investigation. After a great deal of thought, this amendment No. 3706 does not include the FBI under the supervision, direction, and control of the national intelligence director as the other agencies enumerated would have the national intelligence director with the authority to supervise, direct, and control which, in my judgment, would give the national intelligence director the authority to manage and oversee the national intelligence community in an effective way.

The essence of my bill was circulated to the Governmental Affairs Committee with a letter dated August 3 of this year. I put the bill into the CONGRESSIONAL RECORD on September 7. I introduced the bill on September 15 under the caption of S. 2081. The amendment embodied in No. 3706 is somewhat different, as I have described it.

We are dealing here with agencies where there are inbred cultures of concealment. It is very difficult to get information, even as chairman of the Senate Intelligence Committee.

My experience has shown it was very difficult for the Director of the Central Intelligence Agency to know fully and adequately what has happened within his own agency. One of the matters which I referred to during the committee hearings was information which was disseminated by the CIA Chief of Reports and Requirements in the Soviet East European Division of the Central Intelligence Agency. This was a man who was in the CIA from 1950 until 1991. He had information which was tainted by the Soviet Union—information where the individual conceded that he knew the intelligence came from Soviet-controlled sources and that he disseminated that information at the highest levels of government without disclosing that fact to the individuals whom he transmitted the information that it came from controlled or tainted sources.

That information was transmitted, including transmission on January 13 of 1993. So it went to President George Herbert Walker Bush and it went to President-elect Bill Clinton.

When I took his testimony and expressed shock at what he had done, the individual confidently responded that he had acted entirely properly because disclosure of the controlled source that the information was tainted would have made it even harder, as he put it, to sell the intelligence to policymakers; that there was no reason to believe the Soviets used deception was inaccurate, and no customer would use it unless he had concealed the fact it was tainted.

This was an extraordinary approach, as I saw it, but I think revealing as to what happens within the Central Intelligence Agency, within the Bureau, where the individuals have their empires, where they know better than anybody else, and transmit information to the President of the United States and the President-elect, knowing it to be tainted and not telling the President or President-elect that it was tainted because they then would not use it, and saying that the information was given because the CIA agent, the CIA individual, knew that it was correct. That is just the height of audacity but I think indicative of the kinds of problems we face with the cultures of concealment that we have in the intelligence agencies.

Another matter which I refer to, in the course of the committee hearings, is relevant for presentation; that is, the difficulty of having adequate oversight over the intelligence agencies and the duties that the intelligence agencies have to make disclosures to the oversight committee.

In the spring of 2002, when I chaired a subcommittee of oversight on the Department of Justice and had a wide-ranging subpoena, a document was presented which I ask unanimous consent

be printed in the RECORD, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 9, 1996.

To: Mr. Esposito.
From: Director.
Subject: Democratic National Campaign Matter.

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be ''junk-yard dogs'' and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of ''pressure'' on him and PIS regarding this case because the ''Attorney General's job might hang in the balance'' (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the ''lead agency'' in this matter while operating a ''task force'' with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.

I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.

We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the ''investigative team'' and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude us from this decision-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. The essence of the document disclosed that there had been an effort by ranking officials in the Department of Justice to try to influence the FBI not to pursue an investigation on campaign finance irregularities in December of 1996 because at that time Attorney General Reno was under consideration for reappointment. The relevant part of this document from Director Freeh to Mr. Esposito, who was his deputy handling this matter:

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of ''pressure'' on him and PIS [Public Integrity Section] regarding this case because the ''Attorney General's job might hang in the balance'' (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

This matter was not brought to the attention of the Judiciary Committee as a matter of oversight. In my judgment, this is the kind of a matter which the Director, on his own, without request, without knowledge by the oversight committee, without subpoena, as it was disclosed some 4 years later, should have turned over as a matter of oversight.

Another amendment which I intend to offer would give the national intelligence director a 10-year term on the analogy to the Director of the Federal Bureau of Investigation. That would enable the director of national intelligence to have a substantial degree of independence since his term would outlast the term of the President—4 years or, with reelection, a total of 8 years.

We have seen in today's press reports of very substantial problems in the FBI, where there are inadequate translators and a great deal of information from al-Qaida has gone untranslated. I have talked to FBI Director Mueller, who tells me the information is dated, but there is still a significant problem in having sufficient translators to handle that important matter so we have our intelligence in hand.

The national intelligence director is going to have to be strong and independent, with enough stature, with a tenure of a 10-year term, to come to the Congress and be able to see to it that adequate funds are provided for the intelligence community.

The media reports are full of information that show very substantial problems on what would happen in Iraq after a military victory with the insurgents. The national intelligence director is going to have to be strong and independent and bring those matters to the attention of the Congress as well as to the executive branch.

It is my hope that in this legislation we will do a complete job and structure the responsibilities of the national intelligence director to give him the authority on budget and the authority on supervision, direction, and control to effectively manage and oversee the entire intelligence community.

That is an abbreviated statement of a great many considerations. At this time, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Maine.

Ms. COLLINS. Mr. President, Senator SPECTER is offering the first of what I anticipate will be many amendments to alter the authority of the national intelligence director. He is arguing that the Collins-Lieberman bill does not go far enough. Later on in this debate you will hear from those who believe our bill empowers the NID too far, with too much authority in the NID.

Our approach gives the national intelligence director full budget authority, including the authority to execute, reprogram, and transfer funds over the entire budgets of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, which are all now located within the Department of Defense.

Our bill also gives the NID enhanced tasking authority, the power to transfer personnel and authority over the selections of the heads of these agencies with concurrence from the Secretary of Defense.

What it does not do is sever the link between these agencies and the Secretary of Defense, nor does it give the NID exclusive control over these agencies. And that would be the impact of Senator SPECTER's amendment. He would sever the link between these agencies and the Secretary of Defense, and he would give the NID exclusive control over these agencies. I think that would be a mistake.

I believe our legislation strikes the right balance in the relationship that it sets forth between the NID and these agencies. I note that our approach is consistent with the recommendations of the 9/11 Commission. It is consistent with the recommendations of the administration. The 9/11 Commission, indeed, opposes adoption of Senator SPECTER's amendment. The Commission believes it would be a mistake to sever that link between these agencies and the Secretary of Defense.

In deciding to keep these agencies—the NSA, the NGA, and the NRO—within the Department of Defense, we were cognizant of the fact that the NSA and the NGA are designated as combat support agencies. We did not want to in any way weaken or break the bonds between these agencies and the military forces that serve in that capacity. Indeed, many current and former defense officials warned that taking such a step would be counterproductive and would risk breaking something that is working well for the military today.

For example, at our hearings, Secretary Powell said:

We should not break the link between these intelligence organizations and the organizations that they are supporting, especially within the military context and the direct kind of support that the NRO and similar organizations give to the warfighter.

I would note that by severing that link, the Specter amendment would create some real anomalies. For example, in his proposal, he requires that every 2 years, the chairman of the Joint Chiefs of Staff would submit to the national intelligence director a report on the combat readiness of these organizations. Why would a report on

combat readiness go to the national intelligence director rather than to the Secretary of Defense?

There are some other unanticipated consequences of the Specter amendment that illustrate how wholesale changes to the status of NGA, NRO, and the NSA might have completely unintended consequences. For example, title X, section 442(b) now provides that the National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels in the United States and of navigators generally. The Specter amendment, in changing the Secretary of Defense to the national intelligence director, would make the national intelligence director responsible for a navigation mapping responsibility that has nothing to do with intelligence. That is just an example of some of the unintended consequences.

Again, the approach taken by Senator SPECTER—and I know he has given this matter a great deal of thought—does not have the support of the 9/11 Commission. It does not have the support of the administration. It would sever the link between these combat support agencies and the Secretary of Defense.

I will note that these three agencies within the Pentagon do serve customers other than the Secretary of Defense. There are other consumers, such as the CIA, for the intelligence information they produce. That is why our legislation does give the NID significant authority over these agencies, including budget authority, the ability to transfer personnel, and the ability, with the concurrence of the Secretary of Defense, to name the heads of these agencies. That is the right balance. But to break that link between these agencies and the Secretary of Defense simply, in my judgment, does not make sense.

I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with great respect for Senator SPECTER, friend and colleague, I rise to oppose this amendment.

I want to say that Senator SPECTER has been a very constructive member of the Governmental Affairs Committee, not just on this matter but on so many others that come before the committee. He has contributed substantially to the strength of the bill that is before the Senate that Senator COLLINS and I have offered. He and I talked quite seriously about this earlier in the year, and ultimately my conclusion was that it would construct a bridge too far.

We have a crisis, which the 9/11 Commission documents, which is that we have an intelligence community, as we discussed yesterday and showed on the graphs, without a leader, without anyone in charge. It is so frustrating to the point of being infuriating to read the lengthy narrative at the beginning of the 9/11 Report to see documented the failure to connect the dots. The cases that Senator SPECTER mentioned—one agency knowing something, not telling it to another agency, which might well have either kept out some of the terrorists who struck us on September 11—should have—or would have opened our eyes to the plot that was being hatched that FBI agents came face to face with, this is a system, the American intelligence community, without a leader.

The most urgent recommendation, according to Governor Kean and Congressman Hamilton, that the Commission makes to us is to create a strong national intelligence director and then, right alongside that, a strong counterterrorism center—connect the dots. We have done this. Senator COLLINS documented the various powers we have given to the national intelligence director.

First, this has been a recommendation of commission after commission. Going back to the late 1940s, when the National Security Act was adopted and the Central Intelligence Agency was created, post Second World War, there was the creation of the Director of Central Intelligence who was supposed to be not just the head of the CIA but the overseer of our entire intelligence community. The position was taken but hamstrung. It was not given the power. The DCI was the same person as the head of the CIA. That contributed to the community being without a leader.

In this bill we separate these two positions. We create the overarching national intelligence director, separate from the head of the CIA, and we give that national intelligence director real budget authority, personnel authority and tasking, assignment coordinating authority, which we are convinced will make us a lot safer and stronger against the threat of terrorism here at home and against Americans and others throughout the world.

The Specter amendment goes further than that and would provide that not only would the national intelligence director in the underlying bill direct, oversee, and execute the budgets of these agencies, but he or she would also supervise, direct, and control their day-to-day operations. That approach would create a department in everything but name and put the national intelligence director in charge of multiple agencies on a day-to-day basis.

One of the witnesses before our committee was Philip Zelikow, Executive Director of the 9/11 Commission. We asked Dr. Zelikow: Did the Commission consider creating a department of intelligence, giving the national intelligence director the powers that the Specter amendment would give?

Dr. Zelikow said: Yes, the Commission considered creating such a department but decided against it on several bases.

And they are the bases of my opposition to the Specter amendment. First, the current job that the Director of Central Intelligence had—which was CIA Director, director of presumably the overall intelligence community and principle intelligence adviser to the President—was in itself more than one person could do. To give powers to the national intelligence director for day-to-day operations of the agencies under his or her control would again give more authority, more responsibility than the Commission decided was appropriate and manageable.

The Commission also opted for what they considered to be a more modern management approach. They didn't want to create another big Federal bureaucracy; they wanted to create, really patterned after some very large and very successful private corporations in this country, a central management system, strong as our national intelligence director would be, with budget, personnel, tasking authority, but not top heavy, agile, and not in response or in charge of the day-to-day decisions of all of the agencies under that position. That is what we have in the approach we are taking in this bill.

Senator COLLINS said some people will say—and you will hear of amendments on this floor, as the debate goes on, from Members and those outside the Chamber who feel the bill Senator COLLINS and I have put before the Senate gives the national intelligence director too much power. They will try to strip away that power or fuzz it up so that it is not clear and the status quo can remain. There will be plenty of opportunity to argue against that when those amendments are filed.

But here we are in the middle of a war on terrorism, struck as we were on September 11, under a continuing threat of attack, alerts all over, particularly in Washington and New York—real concern—and to do what looks like protecting the status quo of the particular authority of existing agencies doesn't make sense. There will be those who feel our bill goes too far.

I don't mean to put words into Senator SPECTER's mouth because he is very eloquent, but this amendment suggests we have not gone far enough. The Commission deliberately decided not to take the National Security Agency, National Geospatial Intelligence Agency, and National Reconnaissance Organization out of the Department of Defense. The Commission was concerned, Dr. Zelikow said, about the balance between national and departmental guidance, and they didn't want to tilt the balance too far away from defense. The Commission's executive director portrayed the Commission's idea of a lean, creative command center this way:

Since terrorism poses such a revolutionary challenge to old ways of executive management in our national security bureaucracy,

counterterrorism requires an innovative response.

I believe the underlying bill does exactly that: real authority, decision-making authority, but lean and, may I add, mean, because the people who are threatening us are very mean.

The other thing the kind of structure we have created does is make it harder for the problems that many in the Senate and Committee on Intelligence cited in its report on prewar intelligence are worried about, which is group-think. There is an increased danger that persons at the top of the daily operations of the organizations—there is a danger that you will begin to have not the competition of ideas we want to see in our intelligence community and that we feel strongly will be encouraged by the national intelligence director we are creating by the language in the bill, the focus on independence and objectivity of intelligence and by the national counterterrorism center, which is ultimately the place where everybody who knows anything about a particular problem—in this case terrorism—and maybe the director will create other centers on weapons of mass destruction for particularly problematic countries like Iran or North Korea. Everybody in the Government who knows anything about that will sit down together to share what they have collected in the way of intelligence, share their analysis of it, and then plan jointly on how to stop it, how to deal with the threat represented by those situations.

So I believe Senator SPECTER's intentions are very good, and I admire him for them. But I think at this moment they are a bridge too far, both in the substance of where he would take us and also, frankly, in terms of the probability of any such measure passing Congress. There is an urgency to our deliberations, as we have said over and over again. I think if we reach too far, we may end up with nothing and nothing maintains the status quo, which failed us on September 11 and will fail us again unless we act.

I oppose the amendment. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, by way of a very brief reply at this time, others will say the committee bill goes too far, and the committee bill stands between others who would reject any reorganization of the national intelligence community. The amendment I have offered doesn't go to that point.

The question is, what is the best way to reorganize the national intelligence community? When reference is made to the comments by Mr. Zelikow, the executive director of the 9/11 Commission, he made an analysis of S. 2811, which is a bill similar to the amendment now pending, but it is not the same. I think it is an overstatement to say that the 9/11 Commission rejects the amendment I have offered because it hasn't been considered by the Commission.

Former Senator Bob Kerrey, who was vice chairman of the Intelligence Committee during my tenure as chairman, called me, unsolicited, and said that he favored the elements which I had offered and thought it was preferable to have the national intelligence director with greater authority, which I was proposing.

I believe it is a fair statement to say that the 9/11 Commission would be pleased to see us move to establish a national intelligence director, whether it was along the lines of the committee report or whether it was along the lines of my amendment. I say, too, that it is important to establish a national intelligence director with as many powers as we can reasonably give the national intelligence director. I think that is what the 9/11 Commission is looking for. I don't think it can be accurately said that the 9/11 Commission rejects the substance of my amendment. Certainly, former Senator Bob Kerrey, who was a member of the 9/11 Commission, was not, as far as I can say from an unsolicited call. He said he liked the substance of what I was offering.

I think other Senators are going to be interested in participating in the debate. It was unknown, generally, what sequence would occur as to the offering of the amendment. But I think others will want to come and be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise to oppose the amendment offered by Senator SPECTER. I do so with regret but with conviction. Regarding the phrase ''direct and control their day-to-day operations,'' if somebody wants to make the national intelligence director strong, that will certainly do it. The question is, what does that mean? What are the implications? That goes into the law, and then people have to interpret what that law means. I think if there is anywhere we want to be quite clear, we want the American people, through public law, to understand how far the national intelligence director can go and, on the other hand, to what point can that particular person not go.

We give that person all kinds of authority, and I think the appropriate authority, but when we get into managing and direct control of the day-to-day operations, that is a phrase which concerns me greatly, and I say so not as one Senator from West Virginia but as vice chairman of the Intelligence Committee.

My understanding is that this was brought up in the Governmental Affairs Committee and was defeated by a vote of 12 to 5, which is not nip and tuck.

I think the recommendations that were central to the 9/11 Commission were very forthright, and Senator COLLINS and Senator LIEBERMAN have reflected in their bill, which I am proud to cosponsor, very strong measures: a unified budget—oh, there are some people around town who are not very happy about that, which is all right—personnel, management authority over the national intelligence programs.

But then we come back to the phrase ''direct and control their day-to-day operations,'' and that makes me go to an argument which I am quite sure, since I was not on the floor, was used by both good Senators who are managing this bill. And that is, what I think they tried to do is they figured some people would want to have the national intelligence director stronger than what they proposed, and others would want to have the national intelligence director weaker than what they proposed. I heard cases on both sides.

As I hear those cases, I am drawn more back to the possibility of the one I think is the more sensible approach as a person who has been in government for a long time but also, quite frankly, I am interested in passing a bill and passing a bill that we are pretty sure will be doing no harm as a result of the passing of that bill. I am not sure the Specter amendment meets that particular test.

We have all these agencies, and we want to create some sense of order, but we do not want to get unnecessarily in the way in places where we should not of the combatant commanders, which Senator COLLINS mentioned in her excellent opening statement yesterday. There are some things which the military should be able to make decisions about outside of the national intelligence director, and they are allowed to so do on a modest basis, but on an important basis, by this bill.

The Collins-Lieberman bill strikes exactly the correct balance on this matter, and I think balance, generally speaking, is what works in this country and balance is generally what gets bills passed in a closely divided Senate.

Their bill explicitly acknowledges the connection and, at times, the tension with what I have just spoken about, and that is the needs of the military and the needs of the intelligence community.

The Collins-Lieberman bill accommodates the uniformed military's legitimate need to control its operations. I think that is right without short-changing the consumers of the intelligence, such as the President of the United States, Congress, and senior officials throughout the Government, such as the Secretary of State and the Secretary of Homeland Security.

Their bill correctly recognizes the new national intelligence director will have to rely on the expertise of his newly created deputies which are left, to my way of thinking, in their bill very intelligently just floating a bit so that he can decide wisely how best to do that rather than decide everything in a period of a week or two.

I think Chairman Kean and Vice Chairman Hamilton have endorsed the approach contained in the Collins-Lieberman bill. That would be good

enough for me on most matters, and it certainly is on this matter. The notion that the national intelligence director established under this bill would not be sufficiently empowered to effectively manage the intelligence community is not borne out when one reads this legislation, and that is what they are doing. They are doing the managing of the national intelligence aspect.

Without going on at great length, I like the balance. It is the nature of this body to seek out that kind of balance. We have to be realistic that we are faced in the days ahead with some fairly strong probable assaults upon this bill by those from the Armed Services Committee and perhaps some from other committees, and our strength in being able to get a bill passed, in knowing we passed a good bill, is by sticking to a moderate and centrist course which, in fact, is quite radical in terms of everything which has taken place since the National Security Act of 1947. This bill is an enormous update.

I just wish to be understood as being strongly for the approach of Senator COLLINS and Senator LIEBERMAN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his excellent comments. He states the case very well.

There are two final points that I would like to make on Senator SPECTER's amendment, and that is, when we asked Philip Zelikow, the executive director of the 9/11 Commission, to comment on this, he gave us a history of why the Commission specifically rejected this approach, and we talked about many of the reasons.

But one other that he mentioned is that one damaging consequence of stripping NSA, NGA, and NRO out of the Department of Defense is that then the Pentagon might well feel obligated to recreate the capabilities within the Department at great expense and creating many more opportunities for bureaucratic conflict. That was a point made by the executive director in expressing his opposition to Senator SPECTER's amendment and in giving us an insight into why the Commission specifically rejected the route taken in this amendment.

I also note that Senator SPECTER's amendment, while it is intended to create clear lines of authority between the NID and the combat support agencies, in reality could well create much ambiguity and confusion. While the amendment gives the NID supervision, direction, and control over these combat support agencies, it keeps them housed in DOD buildings, on DOD land, and the amendment does not take away from the Secretary of Defense the direction and control he currently has over these agencies.

For example, the law that created the National Imagery and Mapping Agency, which is now the National Geospatial-Intelligence Agency, establishes that Agency under the authority, direction, and control of the Secretary of Defense. Yet under the Specter amendment, the NSA, the NGA, and the NRO would fall under the line authority of both Agencies. I think that would create tremendous confusion and ambiguity.

Mr. President, I see the time for the vote has arrived.

The PRESIDING OFFICER. The next 2 minutes will be equally divided by the proponents and opponents prior to the vote occurring at 4:30.

Mr. SPECTER. Parliamentary inquiry: I believe we have 2 more minutes until 4:30.

The PRESIDING OFFICER. And those 2 minutes will be equally divided.

Mr. SPECTER. I seek recognition to make a comment about the pending amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, we can get more into the details on rebuttal as to what Senator COLLINS has said. I do not think it is accurate that we are taking away key authority from the Department of Defense, but I want to print in the RECORD a letter signed by 14 Senators objecting to the committee bill saying that it ''does not give the NID additional authorities will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions.'' It is signed by Senators ROBERTS, SHELBY, DEWINE, HATCH, LOTT, SNOWE, VOINOVICH, BAYH, GRAHAM, WYDEN, BOND, HAGEL, CHAMBLISS, and myself. There is the current chairman, Senator ROBERTS, and three prior chairmen, Senator SHELBY, Senator GRAHAM, and myself.

I ask unanimous consent that this be printed in the RECORD together with a memorandum from me to the members of the Senate Intelligence Committee dated December 5, 1995.

A December 9, 1996 memorandum has already been printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 20, 2004.

Hon. SUSAN COLLINS, *Chairman,*
Hon. JOSEPH LIEBERMAN, *Ranking Member,*
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN: We would like to congratulate both of you for your hard work to draft legislation to reform and strengthen the Intelligence Community. We have covered much ground over the last few months, unraveling the complicated issue of intelligence reform. As a result of your outstanding leadership, we are close to enacting meaningful reform. We understand that your bill includes many important provisions, particularly the creation of a National Intelligence Director (NID) with strong budget authority.

We are writing to you, however, to express our serious concern that the current draft of the bill, as described by your summary and after review by Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions. To fulfill the historic intent of the National Security Act of 1947, we must provide the NID—as head of the Intelligence Community—the additional authorities necessary to match the position's responsibilities and to ensure accountability. To address these concerns, we request the opportunity to meet with you prior to any further committee action on the legislation.

In addition to day-to-day operational control of all elements of the Intelligence Community performing national missions, some members also believe that we must either explicitly create a new agency, or at least provide the NID with supervision, direction, and control similar to a department or independent agency head.

Clear lines of authority between the NID and our national intelligence agencies, extending beyond budgetary control, are critical to our success in countering 21st Century national security threats. There must be no doubt in anyone's mind that the NID is in charge and is accountable.

Thank you for you leadership under very challenging circumstances, and we look forward to meeting with you prior to the committee mark-up of intelligence reform legislation. Working together, we can achieve the real intelligence reform that we all seek.

Sincerely,

Pat Roberts, Mike DeWine, Trent Lott, George V. Voinovich, Bob Graham, Christopher S. Bond, Saxby Chambliss, Richard Shelby, Orrin Hatch, Olympia Snowe, Evan Bayh, Ron Wyden, Chuck Hagel, Arlen Specter.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, December 5, 1995.

To: Members, Senate Select Committee on Intelligence.
From: Arlen Specter.
Re Ames Damage Assessment Inquiry.

On November 29, 1995, Charlie Battaglia, Fred Ward and I and Gerry Prevost, from CIA's Office of Inspector General, went to the home of L in Springfield, VA, to take his testimony because L advised that his medical condition was such that he could not come to the Committee. The deposition lasted about one hour and 45 minutes., The transcript is available for your review.

L began working for the CIA in 1950 and during the period from 1980 to 1991, L was Chief of Reports and Requirements in CIA's Soviet East European Division. He was responsible for determining the quality of Soviet sources, assessing the authenticity of the intelligence, and disseminating those reports to policymakers.

L readily conceded that he knew intelligence data came from Soviet controlled sources and that he disseminated such data to the highest levels of our government without disclosing the fact that it came from such controlled sources.

When I expressed shock at this, L confidently responded that he had acted entirely properly because disclosure of the controlled source would have made it even harder to ''sell'' the intelligence to policy makers, there was no reason to believe the Soviets used deception, no customer could use it unless his unit gave permission, and no customer would make any decision based on one or two documents.

L boasted that often U.S. general officers came to him directly for assessments of Soviet information much to the consternation of his division director.

When L was told that his successor, Z, denied knowing that such intelligence data came from a source known to be controlled by the Soviets, L responded ''bullshit.'' Z received only a letter of reprimand for passing on intelligence data from Soviet controlled sources without appropriate disclosures.

It is had to comprehend: (1) how L failed to understand that his conduct posed a grave threat to U.S. national security and was an unconscionable arrogation of power unto himself; (2) how his superiors (some of whom reportedly knew what he was doing) could permit him to function in this manner for so long; and (3) why the Agency has not turned heaven and earth to root out this kind of attitude and conduct. From the Ames case and other matters, L's conduct and attitude appears to represent a deep-seated institutional problem for the Agency.

Detailed questioning must be undertaken of the supervisors of L and Z, including the Directors, to determine how this could have gone on so long. Extensive work remains to be done to trace to whom the controlled data went, what decisions such data influenced and what damage the U.S. sustained from such decisions.

AMENDMENT NO. 3711

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, do I have 1 minute remaining before the vote begins?

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. HUTCHISON. Mr. President, I hope my colleagues will support this air cargo security amendment. This is an amendment that the Senate has voted on twice and passed. It will add significantly to the security of our aviation community. The airports and the top of the airplane are very safe. We have done a super job of creating those safe areas, but what we have not done is matched that with cargo security, what is in the belly of the airplane. We want a seamless aviation system, and with this amendment I think we will have the safest aviation system in the world.

I am very proud to have the support of so many of my colleagues, and I hope we send a strong message that this amendment should be added to the final bill. I appreciate the support of the chairman, the ranking member, the chairman of the Commerce Committee, and the Aviation Subcommittee as well.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge support for Senator HUTCHISON's amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent to speak for not more than 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support Senator HUTCHISON's amendment. It really strengthens the basic bill that we brought before the Chamber. It would reorganize our intelligence community to better deal with the threat of terrorism. We want this core proposal to be a vehicle for responding to the other recommendations of the 9/11 Commission and to close as many of the points of vulnerability that we have in America to terrorists as we possibly can.

The Commission said major vulnerabilities still exist in cargo and general aviation security. This amendment would go a long way toward ending those vulnerabilities. I thank the Senator from Texas, and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that following the conclusion of the vote I be recognized to speak in opposition to the Specter amendment for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to Hutchison amendment No. 3711. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), 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 96, nays 0, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—96

Alexander	Dole	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hatch	Santorum
Carper	Hollings	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Craig	Landrieu	Sununu
Crapo	Lautenberg	Talent
Daschle	Leahy	Thomas
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wyden

NOT VOTING—4

Akaka	Edwards
Corzine	Kerry

The amendment (No. 3711) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 10 minutes.

AMENDMENT NO. 3706

Mr. WARNER. Mr. President, I rise in opposition to the Specter amendment. I wish to compliment the managers of the bill, Senators COLLINS and LIEBERMAN. I thought their arguments were overwhelmingly persuasive in support of the President's position and indeed the 9/11 Commission that these agencies—the National Security Agency; the National Geospatial-Intelligence Agency, the former Mapping Agency, as we knew it; and the National Reconnaissance Office—have important intelligence functions. They are collection agencies. They must remain under the managerial supervision of the Secretary of Defense. I feel ever so strongly about that.

These three agencies are designated in law as combat support agencies, servicing our troops, the men and women of the Armed Forces wherever they are in the world facing harm's way, today, tomorrow, and in the future.

The President announced, on September 8, that these three agencies would not—I repeat, would not—be moved from the Department of Defense. This decision was based on two very important principles: One, no reform measures that the President advocates should disrupt ongoing operations in the war on terrorism. I am certain all colleagues fully appreciate the sensitivity of that extremely important decision and principle not to move these three agencies. Secondly, no ambiguity should be introduced in the chain of command, from the President through the Secretary of Defense down to the combatant commanders. That is vital to the war on terrorism and indeed other military operations.

These three agencies are designated combat support agencies providing direct intelligence support to the unified combatant commanders currently fighting in Iraq, Afghanistan, and in other theaters.

The Secretary of Defense is accountable to the President. Under law—I shall turn to the law momentarily. To ensure that these agencies provide the proper intelligence to our military customers, the Secretary of Defense must be able to direct them in executing their operational missions.

I would like to pause for a minute and draw to my colleagues' attention the law. It reads, for the Secretary of Defense:

> The Secretary of Defense, in consultation with the Director of Central Intelligence, shall—
>
> (1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense. . . .

Further on down it reads:

> (4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces. . . .

I do not see how the amendment of my colleague from Pennsylvania modifies the existing law, and that is imperative if this amendment is to be effective.

I draw my colleagues' attention further to the law, and that is title 10 with respect to the Chairman of the Joint Chiefs. I read from section 193:

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

That law would have to be modified in some way were this amendment to be adopted.

So, in conclusion, Mr. President and colleagues, I foresee a potential disruption to operations were this amendment to become law. Numbers are classified, but approximately one-half of the employees of these agencies are Active-Duty military personnel.

In addition to national requirements, these agencies provide great volumes of tactical-level support to the warfighter.

Also, in existing law, I draw to my colleagues' attention that the Under Secretary of the Air Force is dual-hatted as a Director for the NRO. So that, too, would have to be amended and changed. Furthermore, the Director of the NSA is dual-hatted. He is a Deputy Commander of Strategic Command for Information, warfighting responsibility.

So in conclusion, I strongly support the position of the distinguished chairman and ranking member and urge colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have listened with a keen interest, as I always do, when the Senator from Virginia speaks. The concerns which I have seen in my tenure on the Intelligence Committee and as chair—and I served with the Senator from Virginia on the Intelligence Committee—is the dominance of the Department of Defense on the budget and the lack of coordination with the other intelligence agencies, the Central Intelligence Agency, and the counterintelligence branch of the FBI.

The citations of authority which the Senator from Virginia raises can all be accommodated. In a very careful way, very carefully crafted, we have left the Department of Defense with the necessary intelligence gathering for them to perform their mission and their function.

When the national intelligence director has overall supervision and management, it does not mean that the Secretary of Defense will not have access to information from the NRO or the NSA or the other branches. When we hear those citations of authority, they can all be molded consistent with the amendment I have offered, which, as the most recent enactment, governs and dominates.

So I know the sincerity and I know the perspective of the chairman of the Armed Services Committee. When I had introduced S. 1718 back in April of 1996, and it was referred to the Armed Services Committee, it was emasculated, really, on a turf struggle. I think there is a very heavy overtone of the turf battle which is present here this afternoon at this moment.

Mr. WARNER. Mr. President, the one thing we want to avoid is patchwork legislation. I have drawn to the attention of my colleague—

Mr. SPECTER. Mr. President, I yield the floor. I had the floor, but I do yield it.

Mr. WARNER. I thank my colleague. But, I say to the Senator, I would be happy to enter into a colloquy with you on this point.

Mr. SPECTER. Then in that event I will stay standing.

Mr. WARNER. I would hope you do so.

I pointed out specific provisions of the law requiring certain accountability of the Secretary of Defense and the Chairman of the Joint Chiefs. We do not want to do patchwork legislation.

My understanding, after reading and studying your amendment, is you take these three entities out of the Department of Defense. I do not read into the amendment where there is a residual authority left in the Secretary to perform the functions as prescribed in title 10 and, to some extent, title 50.

Mr. SPECTER. Mr. President, through the Chair, I would inquire of the Senator from Virginia, what does he see which would stop those various officers from complying with those requirements and still allow the national intelligence director to have overall management? That is my question to the Senator from Virginia.

Mr. WARNER. I will wait for the Senator from West Virginia to answer. You directed it to the Senator from West Virginia.

Mr. SPECTER. I hadn't meant to promote Senator WARNER.

Mr. WARNER. I am trying to inject a little lightheartedness.

Mr. SPECTER. If you are confused on the substance of the question, maybe the court reporter could repeat it.

Mr. WARNER. I say to my good friend, a little humor now and then is well advised. But I understand precisely the question directed to me. Let us read your amendment. Would you read your amendment and show me where that residual authority under titles 10 and 50 are left in the Secretary of Defense?

Mr. SPECTER. There is nothing in the amendment which takes the so-called residual authority from the Secretary of Defense. The amendment gives to the national intelligence director management and supervision, but it does not undercut the directions of the statutes to which you have referred.

Mr. WARNER. I would draw that argument to the attention of the distinguished manager of the bill. My understanding, in reading some of your comments, is that I do not find in this amendment where there is a clear delineation of authority and that managerial responsibility, as required under titles 10 and 50, remains in the Secretary of Defense.

Ms. COLLINS. If the Senator will yield on that point, I think this points out the confusion and ambiguity I pointed out earlier due to the way the Specter amendment is drafted. I agree that it creates confusion and also that the implications of substituting the national intelligence director for the Secretary of Defense throughout the laws creating these agencies creates a lot of unintended problems. That is one reason I believe this amendment should be defeated.

Mr. SPECTER. Mr. President, the concept of unintended consequences is not an unusual argument. It can be attenuated in many directions. My submission to this body is that the amendment is plain on its face, that it seeks to create a national intelligence director who has the authority to manage the intelligence community. When the Senator from Virginia cites responsibilities in existing law, there is nothing in my amendment which undercuts that law, nothing at all. Ambiguity, like beauty, is in the eye of the beholder, and in this situation, on the face of the amendment, there is no ambiguity.

Mr. WARNER. Mr. President, I am reading from section 305, Defense Intelligence Agency. I believe that is clear on the DIA, but I do not see it with reference to the National Reconnaissance Office. ''The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the NID.'' I just see no residual managerial authority left in the Secretary of Defense to fulfill his statutory requirements under titles 10 and 50.

''Line of authority: The Director of National Reconnaissance shall report directly to the national intelligence director regarding the activities of the National Reconnaissance Office.'' I mean, there is the clear English language.

I say to my good friend, he may be well intentioned, but I am somewhat at a loss to find any reference in this amendment that preserves that residual responsibility which you have represented to the Senate.

Mr. SPECTER. Mr. President, I regret the Senator from Virginia is at a loss, but that doesn't affect the plain language of the amendment and the fact that it doesn't disturb the responsibilities under the section cited by the Senator from Virginia.

Mr. WARNER. Might I just hand you the amendment and ask you to point to the language which you feel leaves the residual authority in the Secretary of Defense?

Mr. SPECTER. I think the amendment speaks for itself, I say to Senator WARNER.

Mr. WARNER. I have given every opportunity to my colleague. I stand by my representations to my colleagues and I support the managers of the bill in having this amendment defeated.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the bottom line of the Specter amendment is that it would sever the reporting relationship between the heads of these three combat support agencies and the Secretary of Defense. I don't think that makes sense. I understand these three agencies serve consumers of intelligence other than the Pentagon, other than the war fighters, but the Pentagon, the war fighter, is a very important consumer of the intelligence produced by these agencies, and that is why in our legislation we gave a lot of thought to how to handle the organization of these agencies and the reporting requirements.

We followed the advice of the 9/11 Commission. We kept a reporting relationship to the Secretary of Defense in acknowledgment of the combat support agency role played by these organizations. But in recognition of the fact that they also provide critical intelligence to the CIA and to a host of other agencies and to the President, we recognized that they are national as well.

What we have is a dual reporting responsibility to both the Secretary of Defense and the new national intelligence director. We do strengthen the control of the national intelligence director in significant ways in acknowledgment that these are national assets. We give the director control over the budget of these agencies. We allow the director to appoint the heads of these agencies with concurrence from the Secretary of Defense. The new national intelligence director can transfer personnel and funds. But we should not sever the link between those agencies and the Secretary of Defense. That would be a big mistake.

I urge my colleagues to oppose the Specter amendment.

I appreciate the support of the chairman of the Armed Services Committee.

Mr. WARNER. Mr. President, if the distinguished manager would yield for a question, the distinguished Senator from Pennsylvania, in support of his amendment, submitted for the record a letter dated September 20, 2004, signed by a number of colleagues. Here is a statement that I believe confirms the proposition I just enunciated, that the amendment would strip the Secretary of all of his responsibilities as existing in other statutes. I will read it:

We are writing to you, however, to express our serious concern that current draft of the bill, as described by your summary and after review—

It is addressed to the chairman.

—by the Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular—

This is the operative sentence.

—we feel strongly that the NID must have day-to-day operational control of all elements of the intelligence community performing national missions.

It goes on. So it is very clear.

I would say that they do single out the term ''national missions,'' but these combat support agencies perform both national missions and tactical combat missions. They are not clearly separable. I mean the soldier, sailor, airman, and marine in the field today relies on satellite intelligence, which is a national mission of, say, the NRO, as well as the tactical support the NRO gives in various ways.

So I feel that as I read the amendment, it is totally contradictory of the desire of the 9/11 Commission, totally contradictory of the advice and counsel that the President has given the Congress, am I not correct?

Ms. COLLINS. The Senator is correct and his points are well taken. In reading to me the statement from that letter, the Senator has brought up another important point. Do we really believe that the national intelligence director should have line authority, day-to-day operational authority over all of those agencies? We know that the 9/11 Commission found that one reason the CIA Director was not as effective as he should be was he had too many jobs. He is head of the intelligence community, he runs the CIA, and he is the principal adviser to the President.

Under the formulation proposed by the Senator from Pennsylvania, we would be worsening that problem by giving the NID line authority, day-to-day operational authority. That person cannot possibly run all of those agencies and still coordinate, oversee, and manage the intelligence community.

So I believe this amendment goes too far. The Specter amendment essentially creates a de facto department of intelligence, as my colleague from Connecticut has pointed out, and that approach was specifically rejected by the 9/11 Commission. They specifically considered what should be the reporting relationships of these three combat support agencies. They rejected the approach taken by the Specter amendment. The administration also opposes that approach. Our committee rejected that approach. Our witnesses did not think that approach was wise.

I urge my colleagues to join in opposition to the amendment offered by Senator SPECTER.

Mr. WARNER. Mr. President, may I ask my distinguished colleague another question? This is a letter which is now submitted for the RECORD. It contains the names of about eight or nine other Senators. Have any of those Senators come to clarify this point? I would like to study what they have said.

Ms. COLLINS. Mr. President, in committee, some of the Senators who signed that letter participated in the debate. They did not convince the majority of the committee members. So far in this debate today, I don't believe that other advocates of this approach have yet been heard, but they may well be heard tomorrow. I know Senator BOND wants to speak. I think there are both proponents and opponents who still wish to be heard.

Mr. WARNER. I hope to be on the Senate floor when they do that. I wonder if the managers of the bill might acquaint them with the title 10 and title 50 provisions and ask where in the amendment those provisions are modified; otherwise, we are going to end up with a patchwork. That is one thing I know this chairman and ranking member do not wish to have.

Ms. COLLINS. The Senator's point is well taken.

Mr. LIEBERMAN. Mr. President, I thank Senator WARNER, who chairs the Armed Services Committee, which the chairman of our committee and this ranking member are privileged to serve on, for his statement, his reference to sections of statute that could be compromised and indeed overridden if this amendment of the Senator from Pennsylvania were adopted.

I thought that the colloquy between Senator WARNER and Senator COLLINS was very illuminating. I hope our colleagues had a chance to listen to it because it did, I believe, ultimately explain why this is a bridge too far, a motto from the Second World War, where the troops were sent to take one bridge too far—I have the feeling that Senator WARNER is going to know the background of this ''bridge too far'' reference—too far to hold the bridge and, as a result, the overall effort collapsed.

I am afraid this stretches too far and it weighs down the reforms we are trying to make. I believe the colloquy between Senator WARNER and Senator COLLINS is a great argument for the balance we have struck. We leave the line authority over these national intelligence agencies with the Defense Department. Without going into details—because it is classified—thousands of men and women in uniform serve in these agencies. So we want to leave that line authority with the Secretary of Defense but create a reporting authority to the national intelligence director because the NID will oversee the entire intelligence community.

This has been a wonderful learning experience for Senator COLLINS and me. We met with the head of the NSA, General Hayden, and the head of the NGA, General Clapper, and it was fascinating to hear the extent to which they are not only providing day-to-day technical military intelligence to help their personnel in the field at Central

Command today, and other commands, but the way in which they are also providing, because of their extraordinary capabilities, daily assistance and intelligence security to law enforcement agencies. That is the balance we tried to strike.

Mr. WARNER. Mr. President, I will pose a question to both managers, also members of the Armed Services Committee. As we proceed with this legislation, I am sure you are bearing in mind that we recall the aftermath of the 1991 war in which we participated in liberating Kuwait. You will recall as a member of the committee that General Schwarzkopf came before us at that time as sort of an after-action report. He talked in some detail about what he felt were shortcomings, particularly in the tactical intelligence, as to what he needed as a warfighter, as commander of the forces. That sounded alarms throughout the system. It startled many of us that that shortfall existed to that extent. Immediately the then Secretary of Defense and the successive Secretary of Defense—particularly Secretary Rumsfeld—have done everything possible to strengthen and remove the weaknesses that were in the system at that time.

As we proceed on this bill, I hope we have been mindful of particular tactical strengths that have been built into the existing system. It would be my fervent hope that nothing in this bill would roll back that progress. I wonder if the managers might address that, since both are members of the Armed Services Committee and have experience with the gulf war and what has been done in the ensuing years.

Mr. LIEBERMAN. I thank the Senator for his question, my chairman of the Armed Services Committee. It is an important question, one that Senator COLLINS and I weighed as we went through this process of accepting the assignment from the bipartisan leadership to consider and recommend to the Senate on the 9/11 Commission Report. We both take not only our responsibility to protect America's security under the Constitution seriously, we take our membership on the Armed Services Committee seriously. We have a purpose here. We want to put somebody in charge. The 9/11 Commission Report says the intelligence community doesn't have a leader. They are not coordinating their effort. As we do that, we said we want to make sure we don't compromise the quality and availability of intelligence to our warfighters. In fact, we believe our proposal not only doesn't compromise the quality of intelligence, but will ultimately improve it because there will be better coordination.

Even from within some of these agencies, national assets under the Defense Department, high officials said to us that they don't benefit, they don't think the military benefits, the warfighters benefit from the current ambiguity. Make those lines clear, and all the customers, if I can use that term, of intelligence will benefit, including the military.

Senator WARNER knows that in specific regard to the so-called TIARA, or tactical intelligence budget of the military, that remains totally within the Defense Department, and so do most of the joint military intelligence programs. So the answer is a resounding yes. We understand the uncertainty, the anxiety because of our bill. The 9/11 Commission recommendations represent change. It does take the budget authority and put it under the national intelligence director for national intelligence programs, including these three within the Defense Department. So we understand the anxiety. But we think we put together a balanced system that will not only first provide the No. 1 customer of intelligence, the President of the United States, with the best intelligence, with the coordinated unity of effort that he requires, but do the same for the warfighters. That is our firm belief.

Mr. WARNER. Mr. President, that is reassuring. If I might further inquire of my distinguished colleague, I was given today, and I expect the managers maybe earlier received this, in any event, this is the September 28 communication from the Executive Office of the President to the Senate. It is entitled ''Statement of Administration Policy.'' Has that been printed in the RECORD as yet today?

Ms. COLLINS. It has not.

Mr. WARNER. Mr. President, I ask unanimous consent, at this point in the debate or at the conclusion of our colloquy, to print this Statement of Administration Policy in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports Senate passage of S. 2845, commends the Committee for its expeditious attention to these important intelligence reform issues, appreciates the Committee's efforts to include important provisions proposed by the Administration, including specific and detailed budget authorities for the National Intelligence Director (NID), and looks forward to working with the Congress to address the Administration's concerns outlined below. This measure will build upon actions already taken by the Administration, including in the President's recently issued Executive Orders, as well as upon the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission).

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

The Administration is concerned about the excessive and unnecessary detail in the structure of the Office of the NID. In particular, provisions of S. 2845 would, in the aggregate, construct a cumbersome new bureaucracy in the office of the NID and in the Executive Office of the President with overlapping authorities. Legislatively mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights. The Administration urges the Senate to delete or significantly revise these problematic provisions.

The Administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee bill's provision relating to the NID's role in acquisition in major systems needs further study to ensure that the requirements of major consumers are met.

The Administration supports the strong information-sharing authorities granted to the NID in the bill. The Administration is concerned that the extensive authorities and responsibilities granted to the Office of Management and Budget (OMB) to implement an information sharing network are both outside of OMB's usual responsibilities and are inconsistent with the goal of ensuring a NID with effective authority to manage the Intelligence Community. These responsibilities should be granted to the NID in such a way as to remain consistent with section 892 of the Homeland Security Act of 2002. The Administration also believes that the detail in which the legislation prescribes the network is excessive; the network would be more likely to accomplish its beneficial goal if the bill simply provided the authority necessary for its establishment while leaving the details to be worked out and altered as circumstances require.

The Administration is also very concerned about the provisions that would purport to reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. Based on the constitutional doctrine of separation of powers, the Congress should not legislate and make permanent the internal organization of the President's own Executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, for the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

The Administration opposes the provision in the Committee bill purporting to require the President to select a single department or agency to conduct all security clearance investigations. Although the Administration supports improvements to the security clearance process, this provision would impermissibly interfere with the President's need for flexibility in conducting security clearance investigations and does not recognize the special needs of individual intelligence agencies.

The 9/11 Commission found that the creation of a NID and National Counterterrorism Center, ''will not work if congressional oversight does not change too.'' The Administration notes that the bill does not address this vital reform component or the parallel recommendation to consolidate oversight for the Department of Homeland Security. The Administration believes the legislation

should also address the Commission's recommendation to ensure rapid consideration by the Senate of national security appointments.

The Administration notes that the Committee bill did not include Section 6 (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performance of the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. Mr. President, I think it is a document that will be of value to all Members of the Senate if they have not received it.

I would like to draw the attention of the two managers to that operative paragraph 2:

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

It is the operative phrase that ''the Administration will oppose any amendments that would weaken the full budget authority,'' and the preceding sentence where they said ''a NID with full, effective, and meaningful budget authorities.''

Mr. President, first, I would like to ask the two managers, is the purport of this paragraph consistent with all the several provisions in the bill that refer to budget authority, in their judgment?

Ms. COLLINS. Mr. President, to answer the question of the Senator from Virginia, I believe it is consistent. I direct the Senator's attention to the very first sentence of this Statement of Administration Policy where it states: ''The Administration supports Senate passage of S. 2845.'' That is the bill before us. That is the bill that is also known as the Collins-Lieberman bill.

Mr. WARNER. Without diminishing in any way that very encouraging sentence, if you go on to read the totality of this communication, there are expressly in here some reservations, but I will not get into that at this point in time.

I want to go back to these words, ''full, effective, and meaningful budget authorities.'' We just had a debate on the Specter amendment, which I believe, with no disrespect to my good friend and colleague, is an extreme viewpoint on this, and I am hopeful the Senate will not adopt it, but we do come back to this pivotal question, and tomorrow I hope to bring forth some amendments. Now that I see the expressed language and the Senator assured me her bill tracks this, I have to have some clarification—at least I shall seek clarification—of what is the remaining role of the Secretary of Defense with regard to those portions; namely, these three combat agencies, together with DIA, what is the residual area of collaboration, jointness, in the preparation of the budget—preparation is part 1—and then the execution of the budget after it goes through the authorization and appropriations process and begins to come back to the several departments and agencies.

So let's talk about what the Senator believes this language—which is consistent, as she says, with the language in the bill—I presume the Senator's language would not be modified or changed by this—what is left to the Secretary of Defense in regard to the budget authority?

Ms. COLLINS. Mr. President, to respond to the question of the Senator from Virginia, our bill makes very clear that the budgets for the tactical intelligence programs remain under the authority of the Secretary of Defense. That is consistent with the position of the administration, and it is also consistent with the position of the 9/11 Commission.

What we are seeking to do is to put national intelligence assets—the budget for those programs—under the national intelligence director and, indeed, much of the budget for these agencies is currently within the National Intelligence Program, or what is now known as the NFIP, the National Foreign Intelligence Program, because as the Senator is well aware, these agencies are providing intelligence not just to the combatant commanders, the troops, DOD, but as one of the generals with whom we met told us, he talks far more often to the Director of the CIA than he does to the Secretary of Defense.

Mr. WARNER. Mr. President, I really think that is an important representation the Senator has made, but I do not read in this language of the communication from the White House the distinction that she draws between tactical and national. Can I refer the Senator again to this language?

Ms. COLLINS. If we look at the administration's legislative language they have sent up, they, too, exclude the tactical intelligence assets. I think what this language is intended to convey is, as one of our witnesses said—as many of our witnesses said—the worst thing we could do is to create a national intelligence director who did not have budget authority. That power of the purse is arguably the most important authority given to the NID, but no one, to my knowledge, has advocated giving the NID authority over the tactical intelligence in the Department of Defense.

Mr. WARNER. I draw the attention of the distinguished managers to the words ''the Administration will oppose any amendments that would weaken the full budget authority. . . .'' It is the word ''full.''

Ms. COLLINS. Yes, that the President has requested for the NID.

Mr. WARNER. To me ''full'' is the whole basket. It could be interpreted that way.

Ms. COLLINS. What I am telling the Senator is that if he looks at the language sent up by the administration, he will see—and if he looks at the language in our bill, he will see there has never been discussion in putting tactical intelligence—

Mr. WARNER. Mr. President, I acknowledge that, the JMIP and the TIARA in the language sent up. But it seems to me the writer of this could have been somewhat more explicit in the communication because this is an important communication to guide Senators desiring to establish their voting pattern in connection with the Senator's bill.

Ms. COLLINS. Mr. President, I say to the Senator, I, obviously, am not the author—

Mr. WARNER. I think I pressed the point far enough and I think the Senator from Maine has been very courteous in her responses. I just want to bring to the attention of colleagues, when this says ''full,'' it is your understanding it did not include the JMIP, the TIARA, and those programs; is that correct?

Ms. COLLINS. That is correct, other than there may be some programs that are now part of the JMIP that are not principally for—and I see my colleague from Michigan joined us; we had a long debate in committee about this—that are not principally used for joint military purposes, but rather are national intelligence assets, and an example of that would be DIA.

Mr. WARNER. I am privileged to be in this colloquy with my friends. I would like to have the assurance of the ranking member of the committee that he concurs in the statements just made by our distinguished Chair.

Mr. LIEBERMANN. Mr. President, my reflex is to say I do, but I must say I was distracted for a while, so I do not know everything the Senator said.

Mr. WARNER. The question is the language sent up by the administration did have a breakout of the budget authority as relates to certain parts of the overall programs performed by these combat agencies.

I ask our distinguished manager of the bill whether this language in the communication today which said the administration opposed any amendments, because I proposed to have an amendment tomorrow—it may be opposed by the administration, but I want to make sure that the phrase ''full budget authorities'' is not amending what they sent up by way of language.

Mr. LIEBERMAN. Mr. President, the sentence is subject to more than one interpretation. So I am not sure what the meaning of it is, but I can assure the Senator about what the intention of the underlying bill is and that is the way in which I look forward to continuing this discussion and debating any amendments the Senator might have.

I found a quote that may be reassuring to the Senator. It is from General Hayden, Director of the National Security Agency, when he testified before the House Select Committee on Intelligence on August 18 of this year about the 9/11 Commission recommendations. He said an empowered national intelligence director, with direct authority over the national agencies, including his own, should not be viewed as diminishing our ability or willingness to fulfill our responsibility as combat support agencies, which I found reassuring. That is certainly our intention and I hope the Senator from Virginia will find that reassuring as well. That, combined with the possibility that the administration might oppose one of the Senator's amendments, I hope will lead the Senator to reconsider.

Mr. WARNER. Well, time will tell. I ask unanimous consent to have printed at this point in the RECORD a copy of the administration—I think the Senator referred to it as a bill although it was never introduced—language they sent up which made a clear reference and distinction to what budget authority was given to the NID and what residual remains in the Secretary of Defense. Am I correct on that?

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I have no objection. I think that would be helpful.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Reserving the right to object, and I will not object, my understanding is, as the Senator said, this is not a complete bill. It was legislative language for parts of what ultimately have been covered in our bill.

Mr. WARNER. Yes.

Mr. LIEBERMAN. I have no objection.

Mr. WARNER. It was a communication from the administration——

Mr. LIEBERMAN. Absolutely.

Mr. WARNER. I guess to the managers of the bill or the committee. Nevertheless, it is a document expressing the intentions, and the distinguished chairman has clearly indicated that her bill tracks that.

Ms. COLLINS. Mr. President, if the Senator will yield?

Mr. WARNER. Yes.

Ms. COLLINS. I do not want to give the impression that our legislation tracks the administration's legislation in all respects, because it does not. What I was saying to the Chair and to the Senator from Virginia is there has never been support for bringing the tactical intelligence assets, bringing the budget for those programs under the national intelligence director's control. Our legislation specifically carves them out and keeps them under the control of the Pentagon. So I am a bit perplexed by this debate because nobody is proposing what the Senator seems to be fearing.

Mr. WARNER. I asked that if a construction of this language we received today is full budget authority, it could lead someone to the conclusion that everything was transferred.

Ms. COLLINS. The full budget authority, in my view, applies to the national intelligence assets.

Mr. WARNER. Good. And if they had inserted that in there, it would have been clearer, I hasten to add. We are not going to debate this further. In fairness, having raised this question, I think the Senator has brought considerable clarification. It may be the administration may be more forthcoming about what they precisely meant by the use of full budget authority in the use of this communication, but let me proceed in my questioning with regard to the residual authority of the Secretary of Defense over those budgets in the combat agencies, and I would like to add DIA, which is also a combat agency.

As the Senator says in her bill, those sections which are tactical are in the discretion of the Secretary in the preparation of the budget, and he would collaborate with the NID in preparing those sections. Now, on the national intelligence collection, I think the chairman agrees with me that the soldiers, sailors, airmen, and marines utilize that in carrying out their tactical missions, although it classifies the NRO and the gathering in space as the national program. Am I correct? It does feed into the tactical portion?

Ms. COLLINS. The Senator is correct.

Mr. WARNER. So, therefore, should not the Secretary of Defense have a voice—and I would like to see how we can describe that voice—in the compilation of that budget for the national program which in part supports the efforts of the forces in the tactical missions?

Ms. COLLINS. I would say to the Senator that the Secretary already does have a voice. There is a requirement that as the national intelligence director develops the budget to be recommended to the President, he must do it in consultation with the Secretary of Defense and the Secretary of Energy for the part of the intelligence community that is under the Secretary of Energy's control, et cetera.

In addition, we create a new entity called the joint intelligence community council, which I think already has an acronym, on which the Secretary of Defense will serve, which serves as an advisory board to the national intelligence director.

I also point out to the distinguished Senator from Virginia that ultimately it is the President's call on the budget. These are recommendations made by the national intelligence director. It is the President who ultimately decides.

Mr. WARNER. Mr. President, that is very helpful. I wonder if the Senator's staff would provide for the RECORD at this point an insertion of those references in the bill which supports the Senator's very important representation to the Senate just now, that the Senator feels he has the consultation role and such other roles as to assure the Secretary of Defense that he has a voice in the preparation of the budget.

Ms. COLLINS. Those provisions are extremely clear in the bill. I do not see how they can be ambiguous.

Mr. WARNER. I just wanted to have the pages annotated. I think my colleague witnessed several colleagues today saying it would be helpful if we could get a clearer understanding of some things, and I think the RECORD today could be of help to those who want to see in the Senator's bill precisely those sections which underpin the Senator's important representation. I ask if the Senator might consider putting that into the RECORD.

Ms. COLLINS. I would be happy to put the provisions in the RECORD. I question why it is necessary when everybody has the bill available. It is on page 12, for example, lines 20 through 25, in describing what the national intelligence director shall do. It says:

> Developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments . . .

I do not see how it could be clearer.

Mr. WARNER. Mr. President, I was not challenging the language. I was simply trying to get a reference. The Senator provided it, and I thank the chairman.

If I could transition to the second part of this, the budget is prepared and approved by the President. It is then acted upon by the Congress by authorization and appropriation and it goes to the NID. Am I correct?

Ms. COLLINS. After Congress acts.

Mr. WARNER. Yes.

Ms. COLLINS. And the law is signed by the President.

Mr. WARNER. Right.

Ms. COLLINS. The appropriation is received by the NID for the national intelligence program.

Mr. WARNER. Right.

Ms. COLLINS. Not for what is known as TIARA or JMIP.

Mr. WARNER. I thank the chairman. That portion of the budget then goes back to be administered by the Secretary of Defense; is that clear?

Ms. COLLINS. Which portion?

Mr. WARNER. That nonnational portion.

Ms. COLLINS. Correct.

Mr. WARNER. It goes back to the Secretary of Defense. I thank the distinguished chairman on that point.

I see on the floor my distinguished colleague, the ranking member of the

Armed Services Committee. I wondered, since he followed this colloquy and I know he has worked very hard in this area with the Senator from Virginia, have some of his concerns which he has expressed to me been touched on in this colloquy?

Mr. LEVIN. I wonder if the Senator from Virginia has the floor. Who has the floor?

Mr. WARNER. I think I have the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia has the floor.

Mr. LEVIN. I ask unanimous consent I be able to respond to the Senator from Virginia without his losing the right to the floor.

Mr. WARNER. Mr. President, I think I have the floor. I am quite happy to yield to my colleague to respond to my inquiry.

Mr. LEVIN. On the first part of the inquiry, what is interesting to me, and ironic, is the Director of Central Intelligence has that same authority the chairman just read from page 12, line 20, that is provided to the NID, which is to develop and present to the President the annual budget for the national intelligence program. That is the same authority as exists in current law to the intelligence director. So there is no change in terms of presenting and developing the budget.

Where the real changes take place are after the budget or after the appropriation is adopted, and then it depends—then the law will change who it is that executes that budget authority. That is where we get very complicated changes.

I think the discussion and debate is very important, that we analyze which specific programs, projects, and activities, budget execution—not presentation or preparation—but execution is transferred to the NID from where it currently is. That is where I think we all would benefit from a description of specific programs which are not transferred. There are some in the tactical area. But there are also some that are transferred—very few, perhaps 3 percent of the 80 percent of the budget that is transferred, in terms of budget execution to the NID—that in my judgment should not be transferred. A very tiny, few programs, including the intelligence—the J–2 programs that are out in the combatant commanders, including the communications infrastructure between the JCS and the combatant commanders. Those specific programs—and I know my good friend from Virginia knows these programs—those specific programs clearly belong in the Defense Department's budget execution, in my judgment. However, they are transferred.

To try to answer the Senator's question, I think it would be very illuminating, in addition to what he has asked for, if we could take some examples, and there are very few, of some programs where budget execution is transferred to the NID that should not be. I emphasize again, so this is not mischaracterized, I am talking here about less than 3 percent of the 80 percent of the budget which is transferred.

Ms. COLLINS. Mr. President, I apologize for interrupting the Senator.

Mr. LEVIN. No, I am done.

Ms. COLLINS. The leaders have been waiting for Senator LIEBERMAN and me since 5:30 for a meeting and they have summoned us again. I did not want to walk off the floor without explaining to my distinguished colleagues the fact that we have already kept our leaders waiting for more than 20 minutes.

Mr. ROBERTS. Will the distinguished Senator yield?

Mr. WARNER. Yes, if I could make a preliminary statement, and then I will be glad to yield. As a matter of fact, I will yield the floor. If you seek the floor, I am going to yield it momentarily.

Mr. ROBERTS. I was going to ask a question of the distinguished floor manager. I thank the distinguished Senator from Virginia for his courtesy.

It is my understanding we are not going to vote on the Specter amendment as of this evening; is that right?

Ms. COLLINS. I am sorry, I couldn't hear the Senator.

Mr. ROBERTS. It is my understanding we are not going to vote on the Specter amendment as of this evening; is that correct?

Ms. COLLINS. The Senator is correct. The vote will occur tomorrow.

Mr. ROBERTS. Do we have an idea approximately what time tomorrow morning?

Ms. COLLINS. We do not. We have not been able to determine how many people still want to speak on the amendment. We are trying to accommodate those who do wish to speak.

Mr. ROBERTS. One Senator who is asking you some questions now would like to speak, and I would like to have 20 to 25 minutes, if that would be all right, speaking as the chairman of the Intelligence Committee. If I could have an understanding? I know you will work very hard and I know there has been a lot spoken tonight; I understand that. But I would like to speak in favor of the Specter amendment, if in fact that could be arranged, or have that understanding with the Senator.

Ms. COLLINS. I would certainly welcome that. Perhaps we can try with the help of the floor staff to order the series of speakers. We will make sure the distinguished chairman of the Intelligence Committee is protected in that regard.

Mr. LEVIN. I ask unanimous consent also that I be given 5 minutes in opposition to the Specter amendment tomorrow morning, and if I am not here because of the full committee meeting we have at Armed Services, that my statement be made part of the record at that time.

Ms. COLLINS. We hope the Senator will be here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, first I thank the distinguished manager and ranking member for engaging in I think a very important colloquy. I wanted to make a record for some colleagues who have asked a number of questions, and I think we made an interesting record here that will help in their deliberations and thought processes.

I will have amendments tomorrow, hopefully to clarify some things which I feel should be clarified. They are constructive amendments, I say to the distinguished chair and ranking member, because I want to be cooperative and supportive of the President and your efforts. But I do feel very strongly that there are some amendments.

My colleague, Senator LEVIN, and I have worked together. It may well be we will jointly put in some amendments tomorrow on this subject. Not in a manner of a turf battle. I am really quite in temper that that word continues to be brought up, because I personally am striving to do what is best for this country and to make our intelligence system stronger as a consequence of this legislative process. I think it can be achievable. But I have to get clarifications. The language in this message that came up today about full budget authority seems to be somewhat contradictory of some other things. But we will work it out.

I thank the distinguished managers and I yield the floor.

Mr. LIEBERMAN. Briefly, I thank Senator WARNER for his statement in opposition to the Specter amendment and for the questions which he raised which I think have been helpful and clarifying. No doubt this discussion will continue in the days ahead.

I thank the Chair.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, it is not very often that things come up that require an immediate fix, but I think one has.

First, I ask unanimous consent I be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 2855 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. 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. VOINOVICH. Mr. President, I rise to address the critical issue that is before the Senate—reform of our intelligence community and restructuring of the Federal Government to enhance our ability to wage the global war on terror and protect our Nation from other threats.

I commend Senators COLLINS and LIEBERMAN and their staffs for their hard work and leadership on this issue, and I am proud to be a cosponsor of this legislation.

I also thank the Senate leadership for making this a priority. There is no issue more important for us to address. In fact, I believe this legislation is the most important I have worked on since coming to the Senate in 1999.

The war on terror is unlike any conflict we have fought—covert holy warriors seeking to infiltrate our society and those of our allies to do us grievous harm. Against this radical enemy, intelligence is of the greatest importance. We must do everything we can to strengthen our intelligence capabilities. If you think of what we need to do about terrorism, we need to attack, we need to prevent, and we need to prepare. Intelligence is the greatest weapon we have in all three of those categories.

Before I comment on this legislation before us, however, I would like to first offer some principles and thoughts that have guided my deliberations.

First, we must do no harm. Great progress has been made since September 11, 2001, to improve the operations of our intelligence community and make our country more secure. There is no greater evidence of that than when I travel in Ohio to various large urban areas. I am so impressed with the cooperation that now exists as contrasted to what was there before 9/11. Because we are making progress, we must be sure that we do not inadvertently set back our current efforts. We must implement additional improvements.

Second, we must not restructure the intelligence community to deal solely with the threat of terrorism caused by Islamic extremists, as pressing a concern as that is. There are many other threats that require close scrutiny by the intelligence community. Reform must address the threats that will confront America 10 and 20 years in the future in addition to those faced today.

For example, the United States must continue to monitor regional conflicts which have the potential to undermine stability in various parts of the world such as India, Pakistan, China, and Taiwan. Regional conflicts, such as between India and Pakistan, are motivated by political, social, and historical reasons unique to their own countries. In the event that regional conflicts should escalate to such proportions that chemical, biological, or even nuclear weapons would be used, as would be possible in the event of a conflict between India and Pakistan, U.S. interests certainly would be threatened. The intelligence community must remain keenly aware of what is happening in other areas of the world so that the U.S. is not only prepared and able to respond but so that we can do everything in our power to prevent such a crisis from happening.

The United States must also monitor threats presented by rogue nations such as North Korea, rogue states that have the ability to foster regional instability and harm U.S. interests. They, too, must be closely monitored as dictators such as Kim Chong-il look to enhance their power and position. If not, the U.S. risks strategic surprise which would be devastating to our national security interests.

Additionally, the United States must address the proliferation of weapons of mass destruction. These weapons have the ability to cause grave harm to Americans and life as we know it if found in the wrong hands. They could be used by terrorists against cities in the United States, they could be used in regional conflict, or they could be used by a rogue state to enhance its power.

Third, we should make it clear to the American people that the different perspectives presented on the Senate floor are legitimate. A review of the hearings held by various congressional committees during August and September demonstrated that many former Government officials who have had distinguished careers in senior national security posts hold contradictory opinions on the 9/11 Commission recommendations and related national security issues.

Fourth, reforming the Federal Government to address the challenges of global terrorism is going to take several years to accomplish. It is not going to happen that fast. It is my hope that during the next Congress we will address the critical challenges confronting the Federal law enforcement community, for example. For example, rationalizing responsibility and missions and personnel systems is vital to ensure that Federal law enforcement is best equipped to confront foreign terrorists operating in the United States.

I am pleased that we have addressed some of the needs of the Federal Bureau of Investigation in the legislation we are considering today. But much more remains to be done, and it is important for our national security to finish this job.

As my colleagues may know, I sponsored legislation that became law that requires the Office of Personnel Management to study Federal law enforcement personnel systems and recommend improvements. I was concerned that we were going forward with personnel changes and getting some coordination between those law enforcement agencies and the homeland security, but we were failing to do the same thing with law enforcement agencies that were outside of the Department of Homeland Security. The Office of Personnel Management has implemented that legislation. They have made some significant recommendations on how we can improve the relationships, classifications, and so forth, with those outside of Homeland Security. It would be my hope that we implement those recommendations.

Regarding the National Intelligence Reform Act of 2004, I strongly support creating a robust national intelligence director, but I have been wrestling with exactly how much authority we should give the new national intelligence director. I appreciate the balance that Senators COLLINS and LIEBERMAN were trying to achieve in their legislation. It is clear to me that these authorities should not be diminished.

In fact, in committee I offered an amendment that would give the national intelligence director reorganization authority over the national intelligence program so that the director could identify efficiencies and eliminate unnecessary duplication of effort. It is unfortunate that my amendment was weakened in committee, and I am still considering amendments to strengthen the management authority of the national intelligence director.

The intelligence community budget process is extremely complex. Indeed, the manner in which these agencies interact with each other is probably the most complicated interagency process in the Federal Government. The budgets of the 15 intelligence community agencies, including all those of the Armed Forces, are intertwined in the National Foreign Intelligence Program, the Joint Military Intelligence Program, the tactical intelligence and related activities.

The Collins-Lieberman legislation seeks to bring clarity to the situation by defining a national intelligence program. However, we may be able to improve this budget definition, and I will weigh all amendments to do so carefully.

At the same time, we must be careful not to erode the budget authority of the national intelligence director. I understand that some of my colleagues may offer amendments to give the national intelligence director a fixed term in an attempt to immunize this individual from political pressure. I would note that a host of other provisions, including a strong inspector general for the intelligence community and an ombudsman to specifically guard against political concerns, have been created to do exactly that.

Quite the contrary, a fixed term is unnecessary and could diminish the effectiveness of the national intelligence director. A close and trusting working relationship with the President is going to be key to the success of the effectiveness of the national intelligence director. We should not weaken this relationship by mandating a fixed-term appointment.

The Governmental Affairs Committee heard testimony from three former Directors of Central Intelligence, and all agreed that the national intelligence director should serve at the pleasure of the President. An incoming President should not be stuck with a national intelligence director from a previous administration.

I know that the Presiding Officer, in his former capacity as Governor of the State of Tennessee and as a member of the Bush Cabinet, understands that if this individual doesn't have the confidence of the President of the United States, his or her effectiveness is going to be diminished a great deal. So much of what this person can accomplish will have a lot to do with that relationship with the President because there are going to be situations where there are going to be differences of opinion. Finally, the boss has to decide them. If you have somebody there that has the job and doesn't have the confidence of the boss, we are in trouble.

Mr. President, although this legislation deals primarily with improving structured roles and missions, the human capital challenges confronting our intelligence community must not be overlooked.

In March of 2001—it seems like a long time ago—my Government Management Subcommittee held a hearing entitled ''The National Security Implications of the Human Capital Crisis.'' The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded his testimony with these remarks:

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government. The maintenance of American power in the world depends on the quality of U.S. Government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges. That fixing of the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

He was so right. Secretary Schlesinger's insightful comments were reinforced by the 9/11 Commission on page 399 of the report. The Commission said ''significant changes in the organization of the Government.'' The Commission went on to say:

> We know that the quality of people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individuals straining, often without success, against the boundaries of the possible. Good people can overcome bad structures, but they should not have to.

I will never forget that after 9/11 the first thing that came to my mind was we didn't have the right people with the right knowledge and skills at the right place at the right time. If you go back and look at all of the report, it gets back to that situation and also the fact that they weren't communicating with each other.

I am pleased that the Collins-Lieberman legislation includes some important human capital provisions. I offered an amendment in committee, which was unanimously accepted, that provides enhanced classification and pay flexibilities for intelligence analysts at the Federal Bureau of Investigation.

Specifically, my amendment enables the FBI to work with the OPM to develop new classification standards and pay rates for intelligence analysts. The amendment also allows the bureau to improve their performance management system for their intelligence analysts and establishes two congressional reporting requirements. The amendment was completely within the spirit of the 9/11 recommendations, which noted that the FBI should create a specialized and integrated national security workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture with strong experience in intelligence and national security throughout the organization.

I thought the other incredible thing after 9/11 was the cry that went out: Can anybody speak Farsi? Can anybody speak Arabic? You would have thought that after the Persian Gulf war there would have been a very aggressive effort, because of the instability of the area, for us to bring in people who could speak Farsi and Arabic. If you looked at the State Department a couple years ago, you would have found we had all kinds of linguists who could speak fluent Russian. But the threat had changed. We didn't have the capacity to change with that threat. Hopefully, with this new national intelligence director, we are going to be able to have that flexibility.

It is my hope that this amendment will provide the Federal Bureau of Investigation with essential human capital flexibilities specifically targeted to building an elite cadre of intelligence analysts. In addition, Senator LUGAR and I will offer another amendment to the bill to improve the Presidential appointment process, which has been broken for decades. Over the coming days, I want to work with Senators COLLINS and LIEBERMAN on this amendment.

This amendment addresses a critical recommendation in the 9/11 Commission Report. It is a problem I have been examining for years. During my time in the Senate, I have found political appointees to be dedicated and diligent professionals who want to make a difference for our country. They often leave high-paying corporate jobs only to find their commitment to our Nation requires an increase in workload and a decrease in salary.

I talked to one individual who filled out the financial disclosure form and all that was required. He said that it cost him $200,000 to pay the professional people to do all the things that were required in this disclosure form that is now currently in effect with the Federal Government. I suspect that the President, when he appointed the Secretary of Education, had to go through all these forms, and so forth, and wondered to himself whether he ought to do it. Before they even begin to work for the Government, however, as I mentioned, they must first navigate the complex, turbulent, and outdated Presidential appointment process—an area where reviews and recommendations for improvement have gone unheeded far too long.

In 1937, a committee issued the first report on improving the Presidential appointment process. During the 67 years since this inaugural report, the appointment process has been formally examined 14 additional times. After such extensive reviews, it is disconcerting for this Senator that we have not been able to enact meaningful reform in this area.

To capture the essence of the problem, understand first that the number of politically appointed positions has grown from 286 to 3,361 over the past 4 decades. This increase is straining an already overburdened system. And the time it takes to complete an appointment has increased through the years from just over 2 months during the Kennedy administration to 8 months in the current administration. I think Secretary Rumsfeld said his team didn't go into place until 6 months after he had been appointed as Secretary of Defense.

Mr. President, 8 months is simply too long to fill an appointed position. I am afraid that if we do not update the current system for processing Presidential appointees, we run the risk of driving good people away from appointed Government service. Progress has been made on this issue during the last several years.

First, on February 15, the Hart-Rudman commission issued their report entitled ''The Roadmap for National Security Imperative for Change,'' which in part examined the Presidential appointment process. The Commission's final report observes: The ordeals to which outside nominees are subjected are so great, above and beyond whatever financial or career sacrifice is involved, so as to make it prohibitive for many individuals of talent and experience to accept public service.

Then on April 4 and 5, the Senate Committee on Governmental Affairs held 2 days of hearings on the state of the Presidential appointment process. During those hearings Paul Light from the Brookings Institution said:

> Past and potential Presidential appointees alike view the process of entering office with disdain, describing it as embarrassing, confusing, and unfair. They see the process as far more cumbersome and lengthy than it needs to be.

By the way, I held a hearing a couple weeks ago, and Paul Light was there,

and he reiterated that same statement he made in 2001.

On May 16, 2001, the Governmental Affairs Committee passed Senator Fred Thompson's bipartisan bill to streamline the Presidential appointments process that I cosponsored with Senators AKAKA, DURBIN, LIEBERMAN, and LUGAR. Although it passed the Governmental Affairs Committee in the 107th Congress, it did not pass the full Senate. When Senator Fred Thompson left the Senate, I promised him I would continue to push for appointments reform. Therefore, in April of last year, I reintroduced the Presidential Appointments Improvement Act, and today I urge my colleagues to pass this important proposal.

What happens is that after the President comes in and he goes through this line of getting people appointed, they get off on other things, and they forget about the problems they went through to get all their appointees. So it kind of goes to the bottom of the stack in terms of priorities. This 9/11 Commission implementation by the Senate gives us a wonderful opportunity to do something about this problem that has lingered for so many years.

I am certain all my colleagues have read the recommendations in the 9/11 Commission report. As you recall, one of the recommendations underscored the importance of improving the Presidential appointment process. Specifically on page 422, the report states:

> Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administration by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow more new officials to assume their responsibilities as quickly as possible.

The 9/11 Commission report also noted that in 2001, the new administration, like others before it, did not have its team on the job until at least 6 months after it took office. In fact, I commented to people that after the length it took for the President to finally know he was President, we lost that period of time once the President was elected and started building his team; they were just concentrating on who was going to be the President. Once that was done, then they started to concentrate on who the people were going to be in the administration.

They did a great job of taking care of the initial people, but, as you know, it took a long time for them to start filling in that organization.

My amendment offers realistic governmentwide solutions to the problems identified by the 9/11 Commission and the 14 other Commission studies and reports that have detailed the importance of streamlining the Presidential appointment process.

The four main provisions of the amendment include streamlining the financial disclosure forms for executive branch employees. Two, requiring agencies to examine the number of Presidential-appointed positions and recommending to Congress which positions could be eliminated. We are asking them to do it. Three, allowing Presidential candidates to obtain a list of appointee positions 15 days after they receive their party's nomination so they will have an idea of the kind of people they have to look for if they are elected President of the United States. And four, requiring the Office of Government Ethics to review the conflict-of-interest laws.

The principles behind this amendment are simple, and given the bipartisan nature in which the original bill passed the Governmental Affairs Committee last Congress, I ask my colleagues to adopt this amendment. Although it will not solve all the problems with the appointments process outlined in the 9/11 Commission report, the amendment is an important first step for updating an outdated system.

I urge the Senate to support its adoption. Senator LUGAR and I will be working with Senator COLLINS and Senator LIEBERMAN to try to obtain their support for this amendment and to also work out any of the problems they may have with it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Kansas is waiting. I need to make a couple of very brief announcements, with the Senator's indulgence.

AMENDMENT NO. 3731 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I have two amendments that have been cleared on both sides. Both of these amendments are second-degree amendments to my underlying amendment No. 3705 regarding Homeland Security grants. Therefore, I ask unanimous consent that the Inhofe-Jeffords second-degree amendment No. 3731, which is at the desk, be considered and agreed to, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3731) was agreed to, as follows:

(Purpose: To ensure the participation of the Under Secretary for Emergency Preparedness and Response in the Threat-Based Homeland Security Grant Program grantmaking process for nonlaw enforcement related grants)

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

AMENDMENT NO. 3732 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Levin second-degree amendment No. 3732, which is at the desk, now be considered and agreed to, with the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3732) was agreed to, as follows:

(Purpose: To give the Secretary of Homeland Security greater flexibility in allocating funds for discretionary grants to local governments)

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

Ms. COLLINS. Mr. President, I hope we can continue to work on the underlying amendment with the goal of having a vote on it shortly. I also want to announce to all of my colleagues that we do intend to vote on Senator SPECTER's amendment tomorrow. I recognize there are a few Senators who have not been heard on it who desire to be heard, but we do intend to conclude the debate and vote on Senator SPECTER's amendment tomorrow.

I thank the Chair.

AMENDMENT NO. 3731

Mr. JEFFORDS. Mr. President, I will never forget my visit to Ground Zero. I hope that September 11 is an event that will never be repeated, on any scale, in our country or anywhere in the world.

I share the goal of all my colleagues that our Nation be as prepared as possible, should such an event occur. However, in seeking to improve our capability to respond to terrorism, it is critical that we do not lose our capability to respond to natural disasters, which happen much more frequently than terrorist events.

The Inhofe-Jeffords second degree amendment to the Collins' amendment will ensure that as we seek to enhance our ability to respond to terrorist events, we do not lose our ability to respond to natural disasters.

I thank my colleagues, the chair and ranking member of the Government Affairs Committee and Senator CARPER, a cosponsor of the Collins amendment for agreeing to accept this amendment.

The role of a first responder, whether responding to a terrorist event or a natural disaster is, for the most part, the same. For decades, the Federal, State, and local governments in this Nation have partnered together to plan, prepare, respond, and recover from both minor and major natural disasters.

We have a robust system for responding to these events, authorized through the Stafford Act and executed through FEMA. My home State of Vermont has a long history with emergency management.

My colleague and friend, Senator Bob Stafford of Vermont, served as chairman of the Environment and Public Works Committee for many years and ushered the Stafford Act through Congress in 1974. The Stafford Act is the authorizing statute for emergency response activities at the Federal level, and it forms the basis for the emergency management system in this Nation. The Stafford Act gave structure to an emergency response process where virtually none existed in the past.

FEMA, which was formed in 1979 and incorporated into the Department of Homeland Security in the Homeland Security Act, is a robust agency, with extensive experience in all-hazards planning, preparing, response, and recovery. It has a tradition of providing quick response to people in immediate need.

As Chairman of the Environment and Public Works Committee during the 107th Congress, I recognized the need to provide assistance to our first responders. I was struck during my visits to the Pentagon and the World Trade Center in particular at the inability of first responders to communicate with each other. To combat this and the other shortcomings we observed, I introduced S. 2664, the Emergency Preparedness and Response Act of 2003 with my colleague Senator Bob Smith. The EPW Committee reported that bill on June 27, 2002.

During this Congress, Senator INHOFE and I worked together to introduce S. 930, the Emergency Preparedness and Response Act of 2003. The EPW Committee reported that bill favorably on July 30, 2003, by voice vote.

Before the formation of the Department of Homeland Security, I expressed grave concerns about the proposal to incorporate FEMA into the Department of Homeland Security. I was concerned at that time that the robust agency we saw jumping every hurdle after September 11, 2001 to provide assistance to World Trade Center and the Pentagon, and to hundreds of natural disasters each year, would give way under the pressure of the enormous bureaucracy of the Department of Homeland Security and lose its ability to respond quickly and effectively to disasters.

I remain concerned today. However, the administration prevailed and incorporated FEMA in DHS with the enactment of the Homeland Security Act of 2002.

Since the formation of DHS, FEMA has administered aid for 169 major disasters, 29 emergency declarations, and 172 fire management assistance declarations—all natural disasters. That is 370 communities that have received emergency assistance from the Federal Government and our Nation's first responders for natural disasters.

Over the last several weeks, we have seen record-breaking hurricanes rip through the southeast bringing high winds, flooding, tornadoes, and beach erosion. In my home State of Vermont, we recently had a disaster declared for extensive flooding throughout the State.

The Inhofe-Jeffords second degree amendment ensures that FEMA, the agency responsible for administering our Nation's disaster response programs, is involved in the distribution of funds to first responders and that grants made are consistent with the Stafford Act. This ensures that we will not lose the level of preparedness and response that we have seen at work in States like Florida over the last few weeks.

We obviously need to be prepared for the small percentage of the time when a terrorist event may occur, but we cannot ignore the day-to-day operations, which affect so many lives.

I thank my colleagues, the distinguished chair and ranking member of the subcommittee as well as Senator CARPER, a cosponsor of the Collins amendment, for working with us to incorporate our second degree into the underlying amendment.

The PRESIDING OFFICER. The Senator from Kansas.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending business be set aside and that the Foreign Relations Committee be discharged from further consideration of H. R. 4011 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Brownback amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3728) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H. R. 4011), as amended, was read the third time and passed.

Mr. BROWNBACK. Mr. President, for the information of my colleagues, what we are considering is something that has been negotiated extensively. It has passed the House of Representatives. It has been negotiated extensively in the Foreign Relations Committee amongst the members interested. It is on the issue of North Korean human rights, or the lack thereof, and U.S. policy.

This bill establishes for the first time—the first time in at least a generation—a human rights principle toward North Korea. Everybody is familiar with the six-party talks that are going on regarding North Korea and nuclear weapons and the threatening nature of the North Korean Government, of its testing missiles, of it moving military operations to threaten people around the country, in South Korea, in Japan, and in particular the United States to give them direct aid to guarantee their security, and issues mostly surrounding the nuclear weapons development.

This bill brings into focus a United States Government position on North Korean human rights abuses, which are extensive, probably the worst human rights abuses in the world. It is at least in the top two or three, and that is saying something when you consider what is taking place in the Sudan and Iran.

North Korea lost 10 percent of its population in the last 10 years to starvation. We think they have something

around 150,000 people, maybe more, in the gulag system, political prisoners. There is trafficking of individuals taking place within that country. They are counterfeiting money. They are drug running. They are gunrunning. This is a criminal enterprise that is taking place.

This bill deals with the human rights issues. It brings it front and center. The bill requires a report to be issued. It requires the Secretary of State to put forward a person of high distinction to press the human rights agenda, and we hope to get the issue of human rights in North Korea elevated to the same level or in the level with the talks in the six-party system.

The North Korean Government, when it talks about nuclear weapons development, will bluster and talk a great deal and say they need to be able to do this and they are threatening, but when you raise the issue of human rights, they go silent because there is no response to the shame of what they have done to their own people.

We are elevating this issue and making clear the United States Government position on the issue of human rights in North Korea. This is a very important bill. I am delighted we passed it this evening.

I wanted to give that brief explanation of this bill as it moves through the process, now to go back to the House and to the President.

I thank my colleague from Maine for yielding the floor and giving me this time. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period for morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

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 August 16, 2000, in New Hope, PA, Douglas Trinkley, 21, and Larry Chroman, 36, were charged with assault, disorderly conduct and reckless endangerment of another person for allegedly attacking another man because of the man's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS NATHAN E. STAHL

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who grew up in Highland, IN. PFC Nathan E. Stahl, 20 years old, died on September 21, when the vehicle he was riding in was struck by a homemade roadside bomb in Iraq. With his entire life before him, Nathan chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A Highland native, Nathan graduated from Highland High School in 2003, and joined the Army shortly thereafter. Nathan was assigned to the 2nd Battalion, 75th Ranger Regiment, a special operations unit based in Fort Lewis, WA. Due to the nature of Nathan's assignments, he was never able to disclose exactly where he had been or where he was going to his family and friends. Despite these hardships, loved ones say Nathan was living his dream by serving his country. The last time Nathan saw his family was 3 months ago when he visited them for 9 days during a period of authorized leave. Nathan faced his frequent deployments willingly and fought bravely before sacrificing his life for the worthy cause of freedom.

Nathan was the 35th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his mother, Towina; his father; his stepfather, Rodney; and his two sisters, Nichol and Abigail.

Today, I join Nathan's family, his friends and all Americans in mourning his death. While we struggle to bear our sorrow over this tremendous loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Nathan, a memory that will burn brightly during these continuing days of conflict and grief.

Nathan was known for his dedicated spirit and his love of country. According to family and friends, joining the Armed Forces was something Nathan had wanted to do since he was a young boy. His mother, Towina, told the Times of Northwest Indiana that she remembers Nathan at 13 insisting that they visit an Army recruiter. He joined the Army only 6 years later. Aside from being a soldier, Nathan enjoyed weight lifting and working on cars. Today and always, Nathan will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Nathan's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Nathan's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Nathan E. Stahl in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Nathan's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Nathan.

OFHEO'S INVESTIGATION OF FANNIE MAE

Mr. HAGEL. Mr. President, the Office of Federal Housing Enterprise Oversight's, OFHEO, findings-to-date report on its ''Special Examination of Fannie Mae'' is deeply troubling. It raises serious doubts about the ability of Fannie Mae's management to correct the safety and soundness problems at Fannie Mae. What is most troubling is that OFHEO had to use subpoenas in order to conduct its congressionally authorized investigation of Fannie Mae. Fannie Mae's resistance to cooperate with this investigation is unacceptable.

Based on the findings in OFHEO's report, it is clear why OFHEO's requests were repeatedly rebuffed by a stonewall of silence and why Fannie Mae's management insisted on keeping its financial operations in a black box. OFHEO's report shows among other things that Fannie Mae's top management indulged in a windfall of bonuses after it improperly manipulated the company's annual earnings. If these actions are found to be deliberately linked, then the board of Fannie Mae needs to take appropriate action and address the problem, just as the board of Freddie Mac did last year.

The boards of both GSEs have a fiduciary responsibility to their shareholders and the public to ensure that

any improper actions by management are dealt with swiftly and accordingly. The confidence in the GSEs has a direct impact on the stability of the American economy. The American people and the markets must have confidence in the operations of the congressionally chartered Fannie Mae and Freddie Mac.

We need to build upon legislation that several of my colleagues and I introduced last year. The Senate Banking Committee passed a watered down version of our legislation, but it is clear from OFHEO's findings that it is not adequate. To prevent these serious actions from occurring, the new GSE regulator must have at a minimum the same powers and resources as those of other financial regulators such as the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.

House Banking Subcommittee Chairman RICHARD BAKER has scheduled a hearing next week to examine the problems at Fannie Mae. There are still too many unanswered questions and I look forward to seeing the results of the House hearing. Given the frequency of the accounting problems, pattern of manipulation and questionable management actions at both Freddie Mac and Fannie Mae, Congress can no longer look the other way.

BOYS & GIRLS CLUB OF AMERICA REAUTHORIZATION

Mr. LEAHY. Mr. President, I am pleased to note that this evening the House of Representatives has considered and passed legislation that Senator HATCH and I introduced together to reauthorize and expand the Department of Justice grant program for the Boys & Girls Clubs of America. I thank Senator HATCH for his longtime commitment to our bipartisan legislation and thank the 46 Senators from both sides of the aisle who are cosponsors of our legislation to support the Boys & Girls Clubs of America.

I pay special thanks to House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS for their leadership and commitment to shepherding this bill through the House and sending it to the President's desk for enactment into law.

Too often the public sees Republicans and Democrats disagreeing. But when it comes to the Boys & Girls Clubs of America there is no doubt that we see eye to eye: This bill shows the unified support of Republicans and Democrats for the good works of Boys & Girls Clubs across the Nation.

Children are the future of our country, and we have a responsibility to make sure they are safe and secure. I know firsthand how well Boys & Girls Clubs work and what topnotch organizations they are. When I was a prosecutor in Vermont, I was convinced of the great need for Boys & Girls Clubs because we rarely encountered children from these kinds of programs. In fact, after I became a U.S. Senator, a police chief was such a big fan that he asked me to help fund a Boys & Girls Club in his district rather than helping him get a couple more police officers.

In Vermont, Boys & Girls Clubs have succeeded in preventing crime and supporting our children. The first club was established in Burlington 62 years go. Now we have 20 club sites operating throughout the State in Addison, Chittenden, Orange, Rutland, Washington, Windham and Windsor Counties. There are also four new Boys & Girls Clubs in the works in Winooski, Brattleboro, Barre and Vergennnes. These clubs will serve well over 10,000 kids statewide.

As a senior member of the Senate Appropriations Committee, I have pushed for more Federal funding for Boys & Girls Clubs. Since 1998, Congress has increased Federal support for Boys & Girls Clubs from $20 million to $80 million in this year. Due in large part to this increase in funding, there now exist 3,300 Boys & Girls Clubs in all 50 States serving more than 3.6 million young people. Because of these successes, I was both surprised and disappointed to see that the President requested a reduction of $20 million for fiscal year 2005. That request will leave thousands of children and their clubs behind and we cannot allow such a thing to happen.

In the 107th Congress, Senator HATCH and I worked together to pass the 21st Century Department of Justice Appropriations Authorization Act, which included a provision to reauthorize Justice Department grants to establish new Boys & Girls Clubs nationwide. By authorizing $80 million in DOJ grants for each of the fiscal years through 2005, we sought to establish 1,200 additional Boys & Girls Clubs nationwide. This was to bring the number of Boys & Girls Clubs to 4,000, serving no less than 5 million young people.

The bill the House will pass today builds upon this: We authorize Justice Department grants at $80 million for fiscal year 2006, $85 million for fiscal year 2007, $90 million for fiscal year 2008, $95 million for fiscal year 2009 and $100 million for fiscal year 2010 to Boys & Girls Clubs to help establish 1,500 additional Boys & Girls Clubs across the Nation with the goal of having 5,000 Boys & Girls Clubs in operation by December 31, 2010.

If we had a Boys & Girls Club in every community, prosecutors in our country would have a lot less work to do because of the values that are being instilled in children from the Boys & Girls Clubs of America. Each time I visit a club in Vermont, I am approached by parents, educators, teachers, grandparents and law enforcement officers who tell me ''Keep doing this! These clubs give our children the chance to grow up free of drugs, gangs and crime.''

You cannot argue that these are just Democratic or Republican ideas, or conservative or liberal ideas—they are simply good sense ideas. We need safe havens where our youth—the future of our country—can learn and grow up free from the influences of drugs, gangs and crime. That is why Boys & Girls Clubs are so important to our children.

I look forward to the President signing into law as soon as possible our bipartisan bill to expand Federal support for the Boys & Girls Clubs of America. Our country's strength and ultimate success lies with our children. Our greatest responsibility is to help them inhabit this century the best way possible and we can help do that by supporting the Boys & Girls Clubs of America.

AGRICULTURE DISASTER FUNDING

Mr. JOHNSON. Mr. President, I rise to speak in support of the agricultural disaster assistance package that was included in the Senate Homeland Security Appropriations bill. Many farmers and ranchers in my home State of South Dakota are suffering from their third, fourth and even fifth year of drought. As House and Senate differences are reconciled, I urge the conferees to retain the important disaster provisions that were approved on such a wide bipartisan basis in the Senate.

The drought provisions I supported, along with Senator DASCHLE, will help farmers and ranchers survive a severe drought. While I would have hoped producers wouldn't be faced with a choice for assistance for either 2003 or 2004, I understand that money is short in these times of soaring budget deficits. The Senate disaster assistance plan will provide almost $2.9 billion to farmers and ranchers across the country who are suffering from agricultural disaster. The $475 million for the Livestock Assistance Program, in addition to the $2.464 billion for the Crop Disaster Program, are critical to my State.

This drought package was introduced by my colleagues, Senator BAUCUS and Senator BURNS, and with the help of Senator DASCHLE it was added as an amendment to the fiscal year 2005 Homeland Security funding bill by a voice vote. A voice vote reflects the overwhelming bipartisan support this drought aid package has. It is frustrating that there are members of the House majority party who would reduce or even eliminate disaster aid funding for ailing farmers and ranchers, or choose to gut other crucial agricultural programs to pay for this necessary assistance.

In 2002, Senator DASCHLE and I proposed a $6 billion drought package, which was opposed by the President and some Members of the House. That package was pared down to $3 billion before its passage. The current package is very similar to the package that was approved for the 2001–2002 drought. Thanks to my colleagues on both sides of the aisle, including Senator DASCHLE's efforts to secure an opportunity to address this issue, we have a

drought package that will allow many family farmers and ranchers to stay in business through this extensive drought.

Over 23 groups expressed their support for the disaster assistance provisions in the Homeland Security funding bill for fiscal year 2005 at the beginning of this week, including the National Farmers Union, American Farm Bureau Federation, American Soybean Association, and National Association of Wheat Growers, to name a few. Such wide and strong support not only speaks to the number of producers who require assistance, but also to the merit of the provisions accepted in the Senate bill.

Drought is a real disaster and we must treat it as such. I am hopeful that my colleagues in the House realize how important this issue is for our agricultural producers, who are the economic engines of our rural communities and the backbone of our Nation. The Senate passed agricultural disaster assistance in a broad bipartisan manner, and I am hopeful that the House will show their support for America's producers by ensuring agricultural assistance remains at the levels authorized in the Senate bill.

SPINA BIFIDA AWARENESS MONTH

Mr. GRAHAM of South Carolina. Mr. President, I rise in recognition of October as Spina Bifida Awareness Month.

Spina bifida is the Nation's most common, permanently disabling birth defect. It is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Each year more than 4,000 pregnancies are affected and of these 1,500 babies are born with spina bifida. The most severe form of spina bifida occurs in 96 percent of children born with this disease. However, thanks to the good work that the Spina Bifida Association of America is carrying out to promote prevention and to enhance the lives of all affected by this condition, substantial progress is being made.

During Spina Bifida Awareness Month, a special effort is made to increase public awareness about spina bifida and its prevention. Simply by taking a daily dose of the B vitamin, folic acid, women of childbearing age have the power to reduce the incidence of spina bifida by up to 75 percent. Recent studies by the Centers for Disease Control and Prevention, CDC, show that 40 percent of women of childbearing age now report taking a vitamin containing folic acid every day. In addition, since the Food and Drug Administration, FDA, decision to fortify enriched grains with folic acid, CDC has documented a 26 percent decline in these birth defects. These simple changes that produce profound effects clearly demonstrate the importance of awareness.

In addition to educating the public about spina bifida, the Spina Bifida Association of America also addresses the needs of the spina bifida community. Founded in 1973, the association is the only national organization solely dedicated to advocating on behalf of the spina bifida community. Today, there are approximately 60 chapters serving over 125 communities nationwide.

I am honored to support the Spina Bifida Association and wish to commend them for all of their hard work to prevent and reduce suffering from this birth defect. I greatly appreciate their efforts to improve the lives of those 70,000 individuals living with spina bifida throughout our country. I wish the Spina Bifida Association of America the best of luck in its endeavors and urge all of my colleagues to support the association's efforts.

ADDITIONAL STATEMENTS

KARA SHERIDAN

• Mr. BUNNING. Mr. President, today I wish to honor Miss Kara Sheridan, the granddaughter of Mr. and Mrs. Carl White of Ludlowe, KY. Miss Sheridan is a most extraordinary young lady. As I speak, Miss Sheridan is representing the United States of America at the 2004 Paralympic Games. The Paralympic Games are the biggest competition in the world for athletes with a disability.

Miss Sheridan earned the honor of competing in the paralympics through hard work, perseverance and a spirit of hope. I believe that it is these three virtues which have also earned her a right to a place of honor here on the Senate floor and in the hearts of her countrymen. She has risen above the challenges posed by ostogenesis imperfecta, a rare genetic condition that she was born with, and showed the world that perseverance and hope will always be rewarded.

Kara's achievements have come in many different forms throughout the years. They include graduating from Wright State University magna cum laude last year, participating in competitive swimming events, serving on committees through the National Youth with Disabilities Council, and being awarded a scholarship to work on her master's degree from the University of Miami. But the greatest honor that Kara has earned is the accomplishment of a hope so great that it seems nothing can deter her.

Miss Sheridan has shown to America and to the world what it looks like to habitually do the right thing by hoping. Thanks to Miss Sheridan, we have already been reminded of that.•

IN REMEMBRANCE OF COLEEN JARVIS

• Mrs. BOXER. Mr. President, it is my honor to speak in memory of the late Coleen Jarvis, Vice Mayor of the City of Chico and strong advocate for women, children, and the less fortunate. She will always be remembered for her love of family, politics and the people whom she served so ably.

Coleen Jarvis dedicated her time and energy to improving her community. She fought to improve conditions for women, children, and the homeless. Coleen served as coordinate for the local rape crisis center and worked at Legal Services of Northern California, giving legal aid to those in need. ''The community of Chico lost a resourceful, energetic, dedicated and smart leader in the too-soon death of Council Member Coleen Jarvis.'' said Butte County Supervisor Jane Doaln. ''I first met Coleen when she worked on behalf of victims of rape and we continued our friendship and shared work on behalf of our loved community in many venues. Coleen had a deep commitment and worked very hard to improve our community and to remind us of our rightful duty to recognize and resolve the needs of the poor. We all were better representatives due to her efforts. She is sorely missed.''

Coleen became an important community leader through her hard work. She was elected to the Chico City Council in 1966, and served almost 8 years. As a council member, she continued to fight for her progressive values. She was passionate about the issues and people she held dear. She was known by her colleagues and friends as a giving person who possessed great integrity, drive, intellect, and wit with an energy and spirit that drove her to fight for what she believed in. Chico Mayor Maureen Kirk reflected, ''Coleen was a public servant full of integrity, passion, commitment, empathy, inclusion, tolerance, and intelligence. Her legacy is the Torres Community Homeless Shelter, the first step in her quest to find a solution for homelessness. Coleen will be sorely missed. In her 46 years, she accomplished more than 99 percent of us would accomplish in twice as many years.

Coleen Jarvis committed her life to her family and the world around her. She touched the lives of many, and her impact on her community will be long remembered.•

POLISH DAILY NEWS CELEBRATES 100 YEARS

• Ms. STABENOW. Mr. President, it is with great pride that I congratulate the Polish Daily News, Inc., which celebrates its 100th anniversary of publishing the Polish Weekly. On Saturday, October 2, 2004 the Polish community will celebrate this milestone at the American Polish Cultural Center in Troy. The Polish Weekly is a wonderful resource for the Polish-American community, providing a wealth of information on local issues as well as news from Poland.

Poles are the second largest immigrant ethnic group in Michigan. They have thrived in communities throughout our State and continue to maintain a strong connection to their rich heritage. Polish immigrants established

themselves throughout Michigan in great numbers towards the end of the 19th century. In the pursuit of a better life for themselves and their families, they settled in Polonias, or Polish neighborhoods. Many arrived in search of job opportunities in our great automotive industry. By 1904, Polish Americans were the largest and one of the most influential ethnic groups in Detroit. By 1920, they made up nearly one-fifth of Detroit's population. Polish people have enriched Michigan's culture and made metro Detroit a better place to live.

There were many institutions important to this growing immigrant population including cultural organizations, churches and the Polish American press. The Polish Daily News has played a significant role in this history, devoting itself to sustaining Polish culture and language and connecting the immigrant community to the political, cultural and social life of America.

I am delighted to have the opportunity to congratulate the Polish Daily News on reaching this significant 100-year milestone. Gratulacje!●

MS. TAMARA BRICKMAN

● Mr. SMITH. Mr. President, today I wish to recognize a special individual who has been serving the great State of Oregon for years. Tamara Brickman, a legislative coordinator at the Oregon Employment Department, is devoted to improving the lives of Oregonians by increasing the efficiency of the State government and improving the quality of workforce training. Her knowledge of State and Federal labor laws is expansive and impressive. My staff and I rely on her expertise frequently when addressing workforce legislation in Congress.

Ms. Brickman is a native Oregonian, the fourth generation of her family to live in a small town named La Grande, not far from my hometown of Pendleton in the northeast corner of the State. She is a graduate of Eastern Oregon University and a former intern of my esteemed predecessor in the Senate, Senator Mark Hatfield. According to Ms. Brickman, it was in Senator Hatfield's office that her true passion for public service blossomed.

Ms. Brickman began her career working for Oregonians as a teacher in La Grande at an alternative high school and a job training facility for individuals receiving public assistance. In January 1993, Ms. Brickman took a job in the Senate Ethics, Elections, and Campaign Finance Reform Committee of the Oregon State Legislature. In fact, Ms. Brickman served as a staffer in the Oregon Capitol when I carried my first bill on the Senate floor as an Oregon State Senator.

Before heading to law school at the University of Oregon, Ms. Brickman furthered her strong reputation in workforce training by running a federally-funded youth summer employment training program in Union County in 1994 and 1995. The training program was part of the Job Training Partnership Act, JTPA, now known as the Workforce Investment Act. Ms. Brickman taught disadvantaged youth in job skills and then found community job placements for those students in local businesses.

After passing the Oregon State bar in 1998, Ms. Brickman held a range of legislative positions for a State senator, member of the U.S. House of Representatives, and the Oregon University System Chancellor's office. For the last 3 years, Ms. Brickman has gone above and beyond the call of duty at the Oregon Employment Department to help members of our congressional delegation pass unemployment extension benefits and fiscal state relief. Ms. Brickman never fails to share important information about the state of the workforce in ways that allow me to craft timely legislation that responds to our State's needs. Her commitment to Oregon's workers and families shines through in her outstanding work.

There are thousands of dedicated State and local government employees across the country who serve their communities with the highest distinction. In my opinion, few could match the professionalism of Ms. Brickman. It is my honor and pleasure to take the time today to recognize Ms. Tamara Brickman for her dedication to Oregon.●

BALLOON FIESTA—CHARACTER COUNTS

● Mr. DOMENICI. Mr. President, I would like to discuss the good that occurs when a community joins together. This relates to a wonderful program I have been proud to promote in New Mexico for the past 10 years—Character Counts—and the support it gets from the business community.

We have had troubling and disappointing news over the past few years about corporate scandals and questionable ethics in the corporate world. So it is with great pleasure to be able to discuss a story about responsible and caring business behavior.

For the fourth straight year, Northrop Grumman has teamed with other local organizations to help at-risk youth experience the Albuquerque International Balloon Fiesta.

On October 7 through 8, eight elementary-age students in the Character Counts education program run through the Albuquerque YMCA and the Boys and Girls Clubs of Albuquerque and Rio Rancho will be treated to a field trip to the Balloon Fiesta courtesy of the Northrop Grumman and its partners—Meals on Wheels and the Albuquerque International Balloon Fiesta organization. The children and their chaperones will be treated to tethered balloon rides and generally feted throughout the day as special guests.

Now, this is more than just a simple do-good action by a major corporation. For these children it is a once-in-a-lifetime adventure linked to the Character Counts education program that builds into their lives the benefits of Respect, Responsibility, Trustworthiness, Citizenship, Fairness, and Caring. These are the six pillars of good character.

The Balloon Fiesta outing is a joint effort by these companies and organizations with the Albuquerque Character Counts Cooperative. We know these trips impact these children's lives. It is not only a reward for excelling at Character Counts, but also an entertaining way for them to broaden their horizons, meet community leaders and have a ballooning experience they might not have otherwise ever experienced.

Character Counts is an incredibly successful character education initiative. We are celebrating its 10-year history in New Mexico and these annual balloon fiesta field trips for outstanding students are a key component to helping youth become inspired by adults who are role models of the Character Counts pillars.

So I express my appreciation to the team of businesses and groups who have helped make the overall Character Counts program a success in New Mexico. In particular, I am pleased with Northrup Grumman, the YMCA, the Boys and Girls Clubs, Meals on Wheels and Albuquerque International Balloon Fiesta for broadening the horizons for children.●

CONGRATULATING MARGARET (PEG) CURTIN

● Mr. DODD. Mr. President, I wish a happy 70th birthday to an outstanding citizen and dear friend, Peg Curtin.

Peg was one of my earliest and strongest supporters when I first ran for Congress in 1974. Peg's family and mine have been close since the 1950s, when my father served in the House and then in the U.S. Senate.

For nearly three decades, Peg has compiled an outstanding record of public and community service in Connecticut. She has truly given her heart and soul to the people of our State.

From 1974 to 1977, Peg was a union organizer for the American Federation of State, County, and Municipal Employees and a member of the international staff of the AFL–CIO. In 1975, she was part of the transition team of one of our State's most beloved Governors, the late Ella T. Grasso. That year, Peg also began the first of 4 years as a member of the New London City Council, including one year as the city's mayor. Among her many accomplishments was the development and implementation of New London's first-ever affirmative action plan.

From 1979 to 1996, Peg devoted her time and energy to the State of Connecticut. For 12 years, she served as under secretary at the Office of Policy and Management's Division of Intergovernmental Relations. There, her talents enabled her to handle a demanding and diverse array of tasks,

from state labor negotiations to emergency assistance during natural disasters. Peg then went on to manage labor relations for 6 years at the University of Connecticut Health Center. She retired in 1996 after once again winning a seat on the New London City Council, an office she continues to hold today.

Peg Curtin's public service is not limited to her official duties. She has been involved in numerous charitable causes. There are far too many for me to list here on the floor, but I will just mention a few: the Connecticut Special Olympics, the American Red Cross, and the March of Dimes. It is only fitting that at tonight's celebration of Peg's birthday, the proceeds for the events will benefit two of the causes about which Peg cares so deeply—the New London Youth Organization and the New London Parks Conservancy.

We in Connecticut are lucky to have Peg Curtin working on our behalf. There is no doubt in my mind that our State is a better place today because of her efforts. I am privileged to call her my friend, and I truly admire her commitment to service, charity, and community. It is my pleasure to wish Peg a very happy birthday, and to send her my best wishes for many, many more wonderful years.●

WALTER S. SMITH, JR., CHIEF UNITED STATES DISTRICT JUDGE

● Mrs. HUTCHISON. Mr. President, today I wish to recognize Chief Judge Walter S. Smith, Jr., of the Western District of Texas. Judge Smith has dedicated his life to public service and justice, and I am pleased to commend him on his 20th anniversary on the Federal bench.

Judge Smith was born on October 25, 1940, to Dr. Walter S. Smith and Mary Elizabeth Smith. He grew up in the central Texas town of Marlin. He attended Baylor University where he received his bachelor of arts and his juris doctorate. While in law school, Judge Smith was editor of the law review and served as president of the Phi Delta Phi law fraternity.

Judge Smith began his legal career in private practice in Waco, TX. In 1979, he was appointed by Gov. Bill Clements to the 54th Judicial District Court of McLennan County. Shortly thereafter, Judge Smith was appointed U.S. Magistrate Judge for the Western District of Texas.

In 1984, Senator John Tower recommended Judge Smith for an appointment to the Federal bench. President Ronald Reagan nominated him for the position and he received a unanimous Senate confirmation on October 4, 1984. Judge Smith was sworn into office on October 6, 1984, and has served since then as the first and only resident United States District Judge in the Waco Division. Judge Smith was elevated to the position of chief Judge of the Western District of Texas on June 1, 2003, a position he continues to hold.

During his legal career, Judge Smith has remained a member of the Texas Bar Association, the Texas Bar Foundation, the McLennan County Bar Association, and the American Judicature Society.

In addition to being admitted to practice in the State of Texas, Judge Smith was also admitted to practice in Federal district courts for the Western District of Texas, the Fifth Circuit Court of Appeals, and the United States Supreme Court. Judge Smith is particularly proud of his participation in the formation of the Abner V. McCall American Inns of Court, for which he served as the first president.

During his years on the Federal bench, Judge Smith has traveled throughout the Western and other Districts of Texas. In addition to Waco, he has held court in Austin, San Antonio, Pecos, El Paso, Midland, Laredo, Corpus Christi and Forth Worth.

Judge Smith is married to the former Brenda Derting. They have two daughters, five granddaughters, and two grandsons. He is an ordained elder in the First Presbyterian Church and has been actively involved in church activities and community service.

During his career, Judge Smith has demonstrated the dedication and patience we seek on our judges. He is respected for his fairness and commitment to justice. Judge Smith has been asked to make rulings on many difficult cases throughout the years and has risen to the many challenges with poise and dignity. His knowledge of the law and experience make him a great judge. His dedication to his community and to the rule of law make him a remarkable public servant. I thank him for his 20 years on the Federal bench in the Western District of Texas.●

MEASURES REFERRED

The following bill was ordered referred as indicated:

H.R. 3428. An Act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''; to the Committee on Environment and Public Works by unanimous consent.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

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–9450. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Allethrin, Bendiocarb, Burkholderia cepacia, Fendidazon potassium, and Molinate; Tolerance Actions'' (FRL#7679-7) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9451. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenamidone; Pesticide Tolerance'' (FRL#7681-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9452. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludiooxonil; Pesticide Tolerances'' (FRL7682-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9453. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide; Pesticide Tolerances'' (FRL#7681-6) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9454. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the approval of wearing the insignia of the grade of rear admiral; to the Committee on Armed Services.

EC–9455. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Army for Financial Management, received on September 28, 2004; to the Committee on Armed Services.

EC–9456. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer and nomination for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9457. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9458. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9459. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary of the Army for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9460. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Navy for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9461. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9462. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9463. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of Defense for Networks and Information Integration, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9464. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Annual Report on Commercial Activities at the Board; to the Committee on Armed Services.

EC–9465. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Research, Development, Test, and Evaluation Support Services in Philadelphia, PA; to the Committee on Armed Services.

EC–9466. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Retail Supply Southwest in San Diego, CA; to the Committee on Armed Services.

EC–9467. A communication from the Army Federal Register Liaison Officer, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Publication of Rules Affecting the Public'' (RIN0702–AA40) received on September 28, 2004; to the Committee on Armed Services.

EC–9468. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 13224 of September 23, 2001 with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–9469. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50324'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9470. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50320'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9471. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50320'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9472. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50331'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9473. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50332'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9474. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50325'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9475. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50325'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9476. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility; 69 FR 42584'' (44 CFR 64) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9477. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50318'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9478. A communication from the Assistant to the Board of Governors of the Federal Reserve, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice for Hearings'' received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9479. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to ''allow the guarantee fee to be included in the single-family housing guaranteed loan''; to the Committee on Banking, Housing, and Urban Affairs.

EC–9480. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Auctions Expenditure Report for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC–9481. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish and Seamount Groundfish Fishery; Fishing Moratorium'' () received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9482. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Allow Processors to Use Offal from Salmon and Halibut Intended for Prohibited Species Donation Program'' (RIN0648–AR64) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9483. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Notice of Closure of the Spring Commercial Red Snapper Component, Reef Fish Fishery of the Gulf of Mexico'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9484. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #8—Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9485. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6—Adjustments of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9486. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #7—Adjustments of the Recreational Fishery from the Queets River, Washington to Cape Falcon, Oregon'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9487. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Remove a Harvest Restriction for the Harvest Limit Area Atka Mackerel Fishery in the Aleutian Islands Subarea'' (RIN0648–AS10) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9488. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands; Closure and Openings'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9489. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Advisory Board Member, Saint Lawrence Seaway Development Corporation, Department of Transportation, received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9490. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled

''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Adjustment of Recreational Retention Limits'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9491. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Shark Management Measures'' (RIN0648–AS07) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes (Rept. No. 108–360).

S. 511. A bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes (Rept. No. 108–361).

S. 1614. A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System (Rept. No. 108–362).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1678. A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes (Rept. No. 108–363).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1852. A bill 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 (Rept. No. 108–364).

S. 1876. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project (Rept. No. 108–365).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes (Rept . No. 108–366).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 2181. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado (Rept. No. 108–367).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2334. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 108–368).

By Mr. DODD, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2374. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes (Rept. No. 108–369).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2408. A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana (Rept. No. 108–370).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

S. 2432. A bill to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes (Rept. No. 108–371).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2567. A bill to adjust the boundary of Redwood National Park in the State of California (Rept. No. 108–372).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2622. A bill 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 (Rept. No. 108–373).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1113. A bill to authorize an exchange of land at Fort Frederica National Monument, and for other purposes (Rept. No. 108–374).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1446. A bill to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes (Rept. No. 108–375).

H.R. 1964. To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes (Rept. No. 108–376).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2010. A bill 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 (Rept. No. 108–377).

H.R. 3706. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes (Rept. No. 108–378).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4516. A bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing (Rept. No. 108–379).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes (Rept. No. 108–380).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

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 (Rept. No. 108–381).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

S. 333. A bill to promote elder justice, and for other purposes.

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. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

By Ms. SNOWE:

S. 2853. A bill to require a report on the methodologies utilized for National Intelligence Estimates; to the Select Committee on Intelligence.

By Ms. SNOWE:

S. 2854. A bill to facilitate alternative analyses of intelligence by the intelligence community; to the Select Committee on Intelligence.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Coporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Res. 436. A resolution designating the second Sunday in the month of December 2004 as ''National Children's Memorial Day''; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. BAYH):

S. Res. 437. A resolution celebrating the life of Joseph Irwin Miller of Columbus, Indiana; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN, Ms. CANTWELL, and Mrs. FEINSTEIN):

S. Res. 438. A resolution supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 439. A resolution recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian; considered and agreed to.

By Mr. HATCH:

S. Res. 440. A resolution designating Thursday, November 18, 2004, as ''Feed America Thursday''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 847

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. ROBERTS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Vermont (Mr. JEFFORDS), the Senator from Idaho (Mr. CRAPO) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors 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. 1556

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 2163

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2163, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2489

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2489, a bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 2565

At the request of Mr. CRAPO, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2565, a bill to amend the Agriculture Adjustment Act to convert the dairy forward pricing program into a permanent program of the Department of Agriculture.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. FEINSTEIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2618

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2618, a bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

S. 2672

At the request of Mr. WYDEN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2672, a bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes.

S. 2707

At the request of Mr. LOTT, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2707, a bill to amend title XVIII of the Social Security Act to recognize the services of respiratory therapists under the plan of care for home health services.

S. 2713

At the request of Mr. DOMENICI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2713, a bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2807

At the request of Mr. CRAPO, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2845

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week''.

AMENDMENT NO. 3704

At the request of Mr. WYDEN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 3704 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3705

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 3705 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. LEAHY, his name was added as a cosponsor of amendment No. 3705 proposed to S. 2845, supra.

AMENDMENT NO. 3706

At the request of Mr. SPECTER, the names of the Senator from Indiana (Mr. BAYH) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 3706 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2851

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

SECTION 1. TERMINATION OF FARM CREDIT SYSTEM STATUS.

Section 7.10 of the Farm Credit Act of 1971 (12 U.S.C. 2279d) is amended by adding at the end the following:

''(c) CONDITIONS FOR CERTAIN TERMINATION.—Notwithstanding subsections (a) and (b), if the Farm Credit Administration Board receives an official notification that a Farm Credit System institution seeks to terminate its status as a System institution, the Farm Credit Administration—

''(1) shall hold not less than 1 public meeting or hearing in each of the States served, as of the date of receipt of the notification, by the institution; and

''(2) shall not approve or disapprove the termination of the institution as a System institution under subsection (a)(2) until on or after the date that is 180 days after the date of receipt of the notification.''.

Mr. JOHNSON. Mr. President, I rise today in support of a bill I am cosponsoring with Senator DASCHLE. This important piece of legislation would affect the way the Farm Credit Administration, FCA, handles any possible sale of one of its member institutions. This bill would require the FCA to hold hearings in all the States affected by the sale, which is what my good colleague from South Dakota and I have been advocating since the time this proposed termination was announced. Additionally, the bill would prohibit the FCA from approving the termination plan no earlier than 6 months after the initial proposal is submitted. I am pleased to cosponsor this legislation with Senator DASCHLE as it will give the Farm Credit System, FCS, and affected parties adequate time to discern long-term implications and consequences of the possible sale of an FCS institution.

This bill is very timely, in that Rabobank, a Dutch bank, has made a bid to purchase Farm Credit Services of America, a Farm Credit System member bank. This transaction is moving ahead at a rapid pace without any hearings in the affected region of the country which happens to include my home State of South Dakota. One of my greatest concerns about the operation of the FCS is for farmers and ranchers to have the ability to ask questions about the transaction and decide if it is in their best interest to allow the transaction to occur. We must ensure that producers will always be able to have access to affordable credit, and that they are well-informed before they are obligated to vote on the potential termination of the Farm Credit Services of America, FCSA.

The Farm Credit System has been in operation in the United States for 88 years and has been serving farmers well. The system was formed to allow farmers and ranchers easy access to credit for purchases that are fundamental to their day-to-day operations. Given the myriad of challenges producers face in our agricultural communities across America, I am greatly concerned that this acquisition would place yet another burden on our ranchers and farmers. I am fully committed to ensuring our producers have adequate access to reliable credit, and support this legislation as a means to achieve that goal. I am hopeful that my Senate colleagues will support this commonsense and imperative legislation.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

Mr. SANTORUM. Mr. President, I rise today to introduce the Special Olympics Sports Empowerment Act. I am very pleased that Senator REID has joined me in introducing this legislation to authorize $15 million for Special Olympics programs. We are also joined by 31 other cosponsors, both Republican and Democrat, conservative, moderate, and liberal, demonstrating the wide range of support for this legislation.

According to the World Health Organization, there are 170 million individuals with mental retardation worldwide. Up to 7 million of these individuals live in the United States. Unfortunately, these individuals tend to have much shorter lives—by 10–20 years—in most countries. In developed countries, there is still significant preventable morbidity, pain and suffering. This population is also generally underemployed, stigmatized and many experience violence or abuse at some point in their lives.

Thirty-six years ago, Mrs. Eunice Kennedy Shriver, who had already been working for years with individuals with intellectual disabilities, founded Special Olympics. In July 1968, Special Olympics held its first games in Chicago, hosting 1,000 athletes. Over the years, Special Olympics has continued to serve many individuals with intellectual disabilities around the world by providing year-round sports training and competitive opportunities. Special Olympics now serves over 1.5 million individuals with intellectual disabilities, their families and communities.

Special Olympics recognizes the value and dignity of every life. As well as providing children and adults with intellectual disabilities with the opportunity of athletic training and competition, these programs provide participants with health screenings using the donated time of voluntary health care providers. In addition, they help to improve awareness throughout the world of the abilities and unique contributions that individuals with intellectual disabilities can make, thus helping to dispel negative stereotypes.

The Special Olympics Sports Empowerment Act will aid an organization that is already hard at work in assisting and providing affirmation to these individuals and their families. It does this by, for the first time, authorizing funding for Special Olympics over 5 years. It authorizes $15 million in fiscal year 2005, and such sums as necessary each year through fiscal year 2009. This bill recognizes the success Special Olympics has had, will ensure that their funding is more stable, and will help Special Olympics to continue to increase the number of athletes and families they serve each year.

I am pleased to be sponsoring this legislation and to have the support of so many of my colleagues. I am hopeful that the Senate and House will act to pass this legislation during the 108th Congress.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

Mr. INHOFE. Mr. President, the recent CBS incident involving the record of President Bush's service in the Texas Air National Guard sheds light on the need for a Federal statute generally criminalizing the forgery of Federal Government documents. I believe that when it comes to crimes involving the fabrication of Federal documents or writings, the Federal Government has an obligation to step in and show the offenders there are serious consequences.

Many experts initially doubted the authenticity of the memos in question, which negatively and falsely characterized President Bush's time in the Texas Air National Guard. We now believe these memos were created on a modern word processing computer rather than the 1970-era typewriter, as alleged in the original CBS story.

LTC Jerry Killian was George Bush's commanding officer during his service in Vietnam. Unfortunately, Lieutenant Colonel Killian died in 1984 and therefore he could not defend his records that he so accurately discussed at that time about the quality of service of our President.

I would say this, though: That Colonel Killian's secretary Marion Knox typed all of his correspondence between the years 1956 and 1979. Referring to the memos in question, she said, ''I know I didn't type 'em'.''

She was very clear. She didn't qualify it. She said, ''I know I didn't type 'em'.''

It is clear that the documents CBS shared with American voters were more than suspect. After the fact—since CBS cannot verify its reporting—I am pleased to see that CBS has belatedly retracted its story.

We also now know that the Kerry campaign was aware CBS was planning to air the story 4 or 5 days before it was aired, while the White House did not know about the airing of this story until the eve of the story breaking. That shows an obvious bias. I don't think anyone can deny it.

President Bush stands by his honorable service in the Air National Guard. He should not have to worry about the threat of nefarious and petty efforts to defame his character.

I appreciated Dan Rather's words: ''I want to say personally and directly I am sorry,'' but saying I am sorry just doesn't cut it.

Under much pressure, CBS has appointed an independent panel to investigate its reporting of the President's service in the Texas Air National Guard. I understand this panel is to be headed by former Attorney General Dick Thornburg and former Associated Press chief executive and former Pennsylvania Governor Lou Boccardi.

I agree with many of my colleagues from the House of Representatives who were dismayed that CBS, a network that should be responsible for reporting objective news, involved itself in a campaign that misled the public and slandered the President. Therefore, I am proposing legislation to criminalize this type of action in general. Most people believe there is already a statute on the books that would have this criminalized.

After learning of the CBS scandal, I was curious about the penalty. I figured there had to be one for the forgery of Federal documents. In seeking the answer to this question, I called the Department of Justice. Their congressional relations office promptly responded: ''It depends.''

I ask unanimous consent that a copy of that communication be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, the Justice Department stated that similar cases were often charged under the general sections of the fraud and false statements chapter of the United States Criminal Code. Those sections have proven quite useful to the prosecutors at the Department of Justice.

I learned of a loophole in the existing law regarding forgery and false statements. I learned there are no general sections of the United States Criminal Code for forgery in counterfeiting as there are in the other cases. Officials from the Department of Justice noted the absence of a general stand-alone statute that criminalizes the actions of those who would forge documents of the Federal Government, regardless of the end they seek to achieve or what these documents are. Currently, the prosecution of such actions depends completely on the context and how forged documents were the means to an end.

Chapter 25 of title 18 of the United States Code addresses various offenses in counterfeiting and forgery. The current 45 sections of the counterfeiting and forgery chapter essentially fall into four broad categories.

This is very important, because if forgery takes place and they do not fall into one of these four categories, then there is no penalty involved: No. 1, financial obligations. Obviously, this is not such a case; No. 2, military and naval discharge certificates; No. 3, transportation matters and motor vehicle documents; and No. 4, the seals of agencies, including courts, departments, and other agencies.

What we are saying is, if it doesn't fall into forgery, it doesn't fall into one of these four categories; there is no general statute that would offer a penalty.

The legislative history of the 45 sections of the counterfeiting and forgery chapter indicate that the sections were enacted piecemeal without a unifying, overarching section. If forgery takes place but does not fall into one of these sections, there is no penalty.

Chapter 47 of title 18 of the United States Code regarding the fraud and false statements chapter also contains disparate sections enacted piecemeal.

In contrast, however, the fraud and false statements chapter does have an overarching section, section 1001, that unifies its disparate, piecemeal parts as contrasted to the forgery statute.

In light of the recent situation involving President Bush's record, these broad, disparate sections need to include, in general, the fabrication of Federal writings or memos.

In speaking with officials from the Department of Justice, I have also become aware of concerns over whether the existing statute regarding fraud, 18 USCS 1001, can be used in this CBS incident. Chapter 47 on fraud and false statements specifically condemns false statements but only those with the intent to defraud the Federal Government. Again, this is talking about fraud and false statements, not the forgery statute.

There are questions as to whether the ''intent to defraud the United States or any agency thereof'' is applicable or whether it could successfully be argued that instead it was the voters of the United States who were initially defrauded, distinguishing in certain fashion the ''United States'' from voters or the like.

These concerns validate the need to criminalize the specific act of forging Federal documents. Technically, in the CBS incident, it could be argued that the forged Federal document did not monetarily or otherwise tangibly take away from the Federal Government. I would argue that it did harm the Federal Government by infringing on the Federal Government's copyright on its work. It certainly did affect millions of Americans by giving them a false and misleading impression about a Presidential candidate. But it needs to be clarified.

As placed under chapter 25 of title 18, my bill would criminalize general forgery of Federal Government documents, including those that characterize or purport to characterize official Federal activity, service, contract, obligation, duty, or property.

If someone attempts to forge in the name of an official of the Federal Government a document or memo that addresses an official Government duty or act, that person should be held accountable. There needs to be a Federal law prohibiting such forgery generally so prosecution of the same does not fall through the cracks.

Currently, there is no catchall section to address all forged Federal writings, such as a vote from one official to another about a Federal service.

I serve on the Senate Armed Services Committee and I honor those who serve in the National Guard. Not only has the CBS incident resulted in slander to the honorable National Guard service of President Bush, it also highlights the risk of the records of other military service members and, moreover, all Federal servants governmentwide alike.

A civil servant at the General Services Administration, which the Environment and Public Works Committee which I chair has to oversee, is equally deserving of being protected from a forgery of his or her work records. Right now there is no section in the forgery chapter of the United States Code that specifically addresses protection for General Services Administration personnel. This omission is a problem we must correct.

My legislation also includes language to condemn those who, knowingly or negligently failing to know, transmit or present any such forged Federal writing or record which characterizes official Federal activities or service. This general criminalization of publishing forged documents follows existing provisions of the forgery code. If a major news network broadcasts a story based on alleged Federal documents, they must take the responsibility to verify those records.

While CBS may not have taken part in the creation of the memo in question, and indeed I think I join all of us Americans in yearning to know who did forge these memos, the network still touted them as verified and broadcast the forged memos as truthful to millions of American voters. I look forward to a full criminal investigation of who did forge the documents.

I draw an analogy in distinguishing between murder and negligent homicide. Those are crimes. Murder is intentional and negligent homicide is

not, but in both crimes someone has been killed. While CBS may not have had the intention to deceive its audience, the false information was communicated when it was negligently not verified and the damage was done nevertheless.

If it were not for the work of many astute people working through the Internet and otherwise, this travesty would not have been on its way to being exposed and fully prosecuted criminally. CBS and its surrogates pointedly disparaged the people who told the truth as mere second-class journalists of the Internet and table television and talk radio persuasions. Rather, it is CBS which has proven itself to be even less than second-class journalism.

I note that numerous pundits have been discussing recently the very vitality of the networks is faltering with the explosion of other media. Pundits have cited CBS's additional poor judgment in failing to cover the political conventions as well as other media outlets did. CBS owes a separate apology to those truth tellers whom it slandered and who have shown better judgment than CBS.

It can be difficult to communicate information without also conveying one's personal conviction on a matter. However, in a free society such as ours, the news media has a responsibility to work to be fair and balanced and to tell both sides of the story without letting a journalistic spin cloud their judgment.

Television, print, and the Internet are a powerful media. They shape our lives. They provide some part of the education of our children, whether we like it or not. The time has come for the media to take responsibility for its actions rather than manipulate public opinion to lobby the causes and politicians the media support. Facts, not conclusions or erroneous records, should be reported. Elections are a powerful example of why journalists must hold themselves to the highest of standards. People can then synthesize information for themselves.

In conclusion, I argue that the media has a grave responsibility to ensure that what it reports is a true and accurate representation of the facts. It could be argued that if CBS either forged the documents or knowingly represented forged documents as being true, there is no penalty under the law. We need to criminalize and establish the consequences for forging Federal documents. I urge my colleagues to stand with me. I cannot imagine anyone not supporting such a piece of legislation.

EXHIBIT I

There's no stand-alone federal offense for forging government documents.

The criminal penalties for the forgery would depend upon the circumstances, the context, basically the underlying facts of the matter—what type of document, for what purpose, what was done with it, what was intended—a lot of various factors that would influence the decision about how it would be charged and hence what the penalties would be.

There is no stand-alone forgery of government documents offense. It depends on the context of the matter.

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. 2855

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

SECTION 1. FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

''Any person who—

''(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

''(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

''(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3), shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

''515. Federal records, documents, and writings, generally.''.

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

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

SECTION 1. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

''(b) TECHNICAL ASSISTANCE.—Effective for fiscal year 2005 and each subsequent fiscal year, Commodity Credit Corporation funds made available for each of the programs specified in paragraphs (1) through (7) of subsection (a)—

''(1) shall be available for the provision of technical assistance for the programs for which funds are made available; and

''(2) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the program for which the funds were made available.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2004.

Mr. HARKIN. Mr. President, I am very pleased to join my colleague and Chairman of the Committee on Agriculture, Nutrition and Forestry, Mr. COCHRAN in introducing this piece of legislation to correct a continuing problem at the U.S. Department of Agriculture with funding for technical assistance for agricultural producers and landowners participating in agricultural conservation programs.

The 2002 farm bill contains a historic increase in funding for conservation programs, including for the Environmental Quality Incentives Program (EQIP), the Farm and Ranch Lands Protection Program (FRPP), the Wildlife Habitat Incentives Program (WHIP), the Wetlands Reserve Program (WRP), the Conservation Reserve Program (CRP), the Grassland Reserve Program (GRP) and the Conservation Security Program (CSP). These programs provide our nation's producers and landowners the financial and technical means to protect and enhance natural resources, including water, air, soil and wildlife habitat.

To realize the environmental benefits made possible by this large new investment in conservation, it is essential that farmers, ranchers and landowners receive professional technical assistance to help them plan, design and carry out effective and workable conservation practices in their specific operations. This technical assistance is provided by employees of USDA's Natural Resources Conservation Service and, under the 2002 farm bill, private sector providers.

Because technical assistance is so crucial to the effectiveness of conservation programs, the 2002 farm bill included sufficient money for technical assistance as an integral part of the mandatory funding provided for each of the conservation programs. The legislation requires USDA to use mandatory funds to carry out the conservation programs, ''including the provision of technical assistance.''

By providing funding in this manner, Congress acted to remedy the substantial and continuing shortfalls in technical assistance for mandatory conservation programs under the 1996 farm bill—which on several occasions necessitated limited stop-gap funding in appropriations measures. These shortfalls resulted from application of a limitation on transfers from the Commodity

Credit Corporation (CCC), often referred to as ''the section 11 cap''. The only conservation program not affected by this limitation was EQIP. That is because the statutory language creating and funding EQIP specifically identified technical assistance as an integral function of the program, thereby creating a funding stream through the program funds directly and outside the limitation on Section 11 transfers from CCC.

In drafting the 2002 farm bill, Congress was thus fully aware of the recurrent shortages of technical assistance funds which plagued the 1996 farm bill's mandatory conservation programs and the manner in which EQIP technical assistance had been exempted from the limitation on CCC transfers. The wording and structure of the 2002 bill closely track the 1996 bill's EQIP language to specify clearly that technical assistance is an integral part of the bill's mandatory funding for each of the conservation programs, and hence not subject to the limitation on CCC transfers. Further, the 2002 farm bill's statement of managers unmistakably indicates that technical assistance is an integral part of mandatory funding, following the model used for EQIP in the 1996 bill.

We believed that the language in the 2002 farm bill solved the problem by fully funding technical assistance through the mandatory program funds without the limitation on transfers from the CCC. Nevertheless, the administration, through the Office of Management and Budget and the Department of Justice, construed the bill so that all conservation technical assistance fell under the Section 11 cap—even for EQIP. The U.S. General Accounting Office disagreed with the Administration's position and concluded that under the farm bill technical assistance is a part of the mandatory funds for each conservation program and not within the limitation on CCC transfers.

The limitation on technical assistance under the administration's interpretation meant that much of the investment we made in the farm bill conservation programs would go unused for lack of technical assistance to plan for and carry out the conservation practices on the ground. To move beyond the impasse created by the misinterpretation of the farm bill by the administration, Congress added language to the 2003 Consolidated Appropriations Act specifying that certain transfers of funding from the CCC for technical assistance are not subject to the Section 11 cap if the funds come directly from the funds provided for several of the conservation programs.

This was only a partial solution. To limit the budget cost, technical assistance funds for all conservation programs (except CSP) are transferred from the funds provided for a subset of programs, namely EQIP, WHIP, GRP and FRPP, that have annual funding limits in the farm bill. As a result, technical assistance funds for WRP and CRP have been taken from the annual mandatory funds provided for the four dollar-limited programs. This has resulted in a diversion of over $200 million to pay for technical assistance for CRP and WRP that would otherwise have gone directly to agricultural producers and landowners through EQIP, WHIP, CRP and FRPP.

The legislation we are introducing today will take the next step and permanently fix the technical assistance funding problem. It will cure the shortage of technical assistance funding so funds will no longer be taken from EQIP, WHIP, GRP or FRPP to pay for technical assistance for CRP and WRP. And, it will finally restore the original intent of the 2002 farm bill to have technical assistance funding come out of the CCC funding provided for each conservation program.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 436—DESIGNATING THE SECOND SUNDAY IN THE MONTH OF DECEMBER 2004 AS ''NATIONAL CHILDREN'S MEMORIAL DAY''

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 436

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from myriad causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one; and

Whereas April is National Child Abuse Prevention month: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY.

The Senate—

(1) designates the second Sunday in the month of December 2004 as ''National Children's Memorial Day''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe ''National Children's Memorial Day'' with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

Mr. REID. Mr. President, I rise today to submit a resolution that would designate the second Sunday in December as ''National Children's Memorial Day.''

The resolution would set aside this day to remember all the children who die in the United States each year. While I realize the families of these children deal with the grief of their loss every day, I would like to commemorate the lives of these children with a special day as well.

The death of a child is a shattering experience for any family. I have had constituents share their heart-wrenching stories with me about the death of their son or daughter. I have heard heroic stories of kids battling cancer or diabetes, and tragic stories of car accidents and drownings.

Each of these families has had their own experience, but they must all continue with their lives and live with the incredible pain of losing a child. Establishing a day to remember children who passed away will lend encouragement and support to bereaved families as they work through their grief. It is important for these families to know that they are not alone.

SENATE RESOLUTION 437—CELEBRATING THE LIFE OF JOSEPH IRWIN MILLER OF COLUMBUS, INDIANA

Mr. LUGAR (for himself and Mr. BAYH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 437

Whereas Joseph Irwin Miller devoted his entire life to the welfare of his family, the employees of Cummins, Inc., and his community;

Whereas Joseph Irwin Miller demonstrated his lifelong love of country by serving honorably and courageously in the United States Navy Air Corps during World War II;

Whereas Joseph Irwin Miller's prowess and integrity as a businessman fashioned Cummins, Inc., into a respected industry leader whose unyielding commitment to its employees and community established a superior legacy of excellence and civic stewardship that will endure for years to come;

Whereas Joseph Irwin Miller was instrumental in transforming the place of his birth, Columbus, Indiana, into a thriving center for architecture and the arts;

Whereas Joseph Irwin Miller gave unselfishly his time and treasure to numerous causes and foundations dear to his ideals through his role as trusted advisor and generous philanthropist;

Whereas Joseph Irwin Miller was a respected counselor to leaders at home and abroad, and made immeasurable contributions to the advancement of human rights everywhere; and

Whereas Joseph Irwin Miller will be remembered as a loving husband to his wife Xenia, a devoted father to his 5 children, and a caring grandfather to his 10 grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) has learned with profound sorrow of the death of Joseph Irwin Miller on August 16, 2004, and extends its condolences to the Miller family, especially his wife Xenia, and his children Margaret, Catherine, Elizabeth, Hugh, and William;

(2) expresses its profound gratitude to Joseph Irwin Miller for the services that he rendered to the United States in the Navy;

(3) recognizes Joseph Irwin Miller's distinguished achievements in industry, his contributions to the world of architecture, his promotion of the arts and humanities, and his advancement of human rights; and

(4) recognizes with respect Joseph Irwin Miller's integrity and guidance as a leader, his treatment of his fellow citizens with grace and humility, and his loyalty, contributions, and service to the City of Columbus, the State of Indiana, and the United States.

SENATE RESOLUTION 438—SUPPORTING THE GOALS AND IDEALS OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH AND EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD RAISE AWARENESS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND ITS DEVASTATING EFFECTS ON FAMILIES

Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN, Ms. CANTWELL, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

SENATE RESOLUTION 439—RECOGNIZING THE CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

SENATE RESOLUTION 440—DESIGNATING THURSDAY, NOVEMBER 18, 2004, AS ''FEED AMERICA THURSDAY''

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as ''Feed America Thursday''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3709. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, supra.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3713. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3714. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3715. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3716. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3717. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3719. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3720. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3725. Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3726. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3727. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. Frist to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra.

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3734. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3735. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3754. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3709. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Under Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Under Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44923. Regular inspections of air cargo shipping facilities

''The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for

shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44923. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44924. Air cargo security

''(a) DATABASE.—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Under Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Under Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Under Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Under Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

''44924. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop guidelines to provide air carriers guidance for detecting false or fraudulent passenger identification. The guidelines may take into account new technology, current identification measures, training of personnel, and issues related to the types of identification available to the public. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any meeting held pursuant to this subsection.

(b) AIR CARRIER PROGRAMS.—Within 60 days after the Under Secretary issues the guidelines under subsection (a) in final form, the Under Secretary shall provide the guidelines to each air carrier and establish a joint government and industry council to develop recommendations on how to implement the guidelines.

(c) REPORT.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act on the actions taken under this section.

SEC. —08. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Under Secretary of Transportation for Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

''(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

''(2) The principle functions of the military intelligence command are—

''(A) to coordinate all military intelligence activities;

''(B) to develop new military intelligence collection capabilities; and

''(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

''(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

''(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

''(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

''(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

''(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

''(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

''(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

''(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

''(A) Developing strategy, doctrine, and tactics.

''(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

''(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

''(D) Training military and civilian personnel assigned to or under the command.

''(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

''(F) Validating requirements.

''(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

''(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

''(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

''(J) Recommending to the Secretary of Defense individuals to head the components of the command.

''(3) The commander of the military intelligence command shall be responsible for—

''(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

''(B) responding to intelligence requirements levied by the National Intelligence Director.

''(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

''(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

''(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

''(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

''(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

''(A) development and acquisition of military intelligence collection systems; and

''(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

''(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

''(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

''(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

''(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

''(2) The elements of the Department of Defense referred to in this paragraph are as follows:

''(A) The Defense Intelligence Agency.

''(B) The National Security Agency.

''(C) The National Geospatial-Intelligence Agency.

''(D) The National Reconnaissance Office.

''(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

''(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

''(1) Intelligence collection.

''(2) Intelligence analysis.

''(3) Intelligence information management.

''(4) Intelligence workforce planning.

''(5) Such other activities as may be specified by the President or the Secretary of Defense.''.

''(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

''167b. Unified combatant command for military intelligence.''.

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44925. Regular inspections of air cargo shipping facilities

''The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping

facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44925. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44926. Air cargo security

''(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following: ''44926. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. 01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator shall develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration shall use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. 02. AIRCRAFT CHARTER CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of chartering fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting passengers to board the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to charter an aircraft and any passengers proposed to be transported onboard the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) control of the aircraft will not be relinquished if the Transportation Security Agency determines that such individual, pilot, or

passenger is identified as a flight security or terrorism risk.

(b) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to charter the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 03. AIRCRAFT RENTAL CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of renting fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting an individual seeking to rent an aircraft to have access to the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to rent the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) the individual will not be permitted to take control of the aircraft if the Transportation Security Agency determines that the individual is a flight security or terrorism risk.

(b) PILOT PROGRAM.—Before fully implementing the program under subsection (a), the Secretary shall test the program through a demonstration project.

(c) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to rent the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 04. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. 05. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIs.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. 06. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the volume of property screened or inspected is at least two-fold the volume that is screened or inspected on the date of enactment of this Act. For purposes of the preceding sentence, the term ''property'' means mail, cargo, and other articles carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''§ 44925. All-cargo aircraft security

''(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

''(A) requiring, to the extent consistent with engineering and safety standards, that all cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

''(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

''(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

''(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

''(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

''(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

''(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

''(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.''.

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''44925. All-cargo aircraft security.''.

SEC. 07. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. 08. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 09. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system,

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. 10. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled ''Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened'' (GAO–03–760), August, 2003.

SEC. 11. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. 12. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. 13. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

''§ 41512. Bereavement fares.

''Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.''

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

''41512. Bereavement fares''.

SEC. 14. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised rule that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. 15. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'') .

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. 16. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect chemical and plastic explosives. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. 17. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving as Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. 18. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. 19. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. 20. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA. 3713. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 13 after line 9, insert the following:

''(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:''

SA 3714. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike ''National Intelligence Authority;'' and insert ''elements of the intelligence community; and''.

On page 53, beginning on line 18, strike ''within the National Intelligence Program''.

On page 53, strike lines 20 through 24.

On page 54, line 1, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 54, line 11, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 55, strike lines 1 through 15 and insert the following:

SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the elements of the intelligence community; and

(2) otherwise advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF FINANCIAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Financial Officer of the Intelligence Community who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the Intelligence Community shall

be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the Intelligence Community shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the Intelligence Community and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert ''and'' at the end.

On page 60, line 22, strike ''and'' at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike ''National Intelligence Authority'' and insert ''intelligence community''.

On page 63, beginning on line 2, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 63, beginning on line 8, strike '', the relationships among'' and all that follows through ''the other elements of the intelligence community'' and insert ''and the relationships among the elements of the intelligence community''.

On page 64, line 11, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, beginning on line 12, strike ''the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 66, line 2, strike ''the National Intelligence Authority'' and insert ''an element of the intelligence community''.

On page 67, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 68, line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 3, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 22, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, line 1, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, beginning on line 12, strike ''National Intelligence Authority'' and insert ''elements of the intelligence community''.

On page 71, beginning on line 16, strike ''the Authority'' and insert ''any element of the intelligence community''.

On page 72, beginning on line 3, strike ''the Authority'' and all that follows through line 8 and insert ''an element of the intelligence community or in a relationship between the elements of the intelligence community.''.

On page 72, beginning on line 21, strike ''Authority official who holds or held a position in the Authority'' and insert ''an official of an element of the intelligence community who holds or held in such element a position''.

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee of any entity other than an element of the intelligence community who is assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

On page 77, beginning on line 17, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.

(a) OMBUDSMAN OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 14, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 20, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 79, beginning on line 4, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 14, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 20, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 81, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 204, strike lines 1 through 3 and insert the following:

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

SA 3715. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, strike lines 6 through 10.

SA 3716. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 22, strike ''and'' at the end.

On page 11, between lines 22 and 23, insert the following:

(5) to such officials of State and local governments having homeland security responsibilities as the President shall direct; and

On page 11, line 23, strike ''(5)'' and insert ''(6)''.

SA 3717. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 8 through 11 and insert the following:

(c) PERSONNEL STRENGTH LEVEL.—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

SA 3718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 4, insert ''foreign intelligence'' after ''means''.

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage,

or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike ''counterintelligence or''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''counterespionage'' means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term ''intelligence operation'' means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term ''collection and analysis requirements'' means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term ''collection and analysis tasking'' means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

SA 3719. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 23, insert ''tactical military'' before ''intelligence''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''tactical military intelligence'' means foreign intelligence produced by an element of the Department of Defense and intended primarily to be responsive to the needs of military commanders in the field to maintain the readiness of operating forces for combat operations and to support the planning and conduct of combat operations.

On page 13, line 9, strike ''military intelligence'' and insert ''tactical military intelligence''.

On page 21, beginning on line 20, strike ''military intelligence'' and insert ''tactical military intelligence''.

On page 52, line 14, strike ''military intelligence'' and insert ''tactical military intelligence''.

SA 3720. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 8 and 9, insert the following:

SEC. 153. NATIONAL INTELLIGENCE UNIVERSITY.

(a) NATIONAL INTELLIGENCE UNIVERSITY.—The National Intelligence Director shall establish within the intelligence community an institution of higher education to be known as the National Intelligence University.

(b) PURPOSE.—The purpose of the National Intelligence University shall be to provide such higher education and training in matters relating to intelligence for personnel of the elements of the intelligence community as the National Intelligence Director shall prescribe.

(c) COMPONENT INSTITUTIONS.—The National Intelligence University shall consist of such component institutions as the National Intelligence Director shall prescribe.

(d) AUTHORITY TO AWARD DEGREES.—Each component institution of the National Intelligence University shall be authorized, upon the recommendation of the faculty of such institution, to award a degree in such fields as the National Intelligence Director shall prescribe to graduates of such institution who have fulfilled the requirements for such a degree.

(e) MODEL.—(1) In establishing the National Intelligence University, the National Intelligence Director shall adapt for use in the National Intelligence University such mechanisms and requirements with respect to the National Defense University under chapter 108 of title 10, United States Code, as the Director considers appropriate.

(2) The Director shall consult with the Secretary of Defense regarding the adaptation to the National Intelligence University of mechanisms and requirements of the National Defense University under paragraph (1).

(f) REGULATIONS.—The National Intelligence Director shall prescribe regulations for purposes of carrying out this section.

(g) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to the congressional intelligence committees a report on the progress made as of the date of the report in the establishment of the National Intelligence University.

(2) The report shall include—

(A) a description of the progress made in the establishment of the University; and

(B) a proposal for such additional legislative actions, if any, as the Director considers appropriate to further the establishment of the University.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ____—PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF 2004

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Presidential Appointments Improvement Act of 2004''.

SEC. ____02. PURPOSES.

The purposes of this title are to—

(1) improve the Presidential appointment process without violating the spirit and letter of conflict of interest laws; and

(2) provide a newly elected President the ability to submit all nominations to the Senate for all Presidential appointments as expeditiously as possible after the President takes office.

SEC. ___03. PUBLIC FINANCIAL DISCLOSURE FOR JUDICIAL AND LEGISLATIVE PERSONNEL.

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended to read as follows:

"TITLE I—JUDICIAL AND LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 101. PERSONS REQUIRED TO FILE.

''(a) Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) or section 201(f) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

''(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the legislative or judicial branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

''(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

''(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

''(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

''(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f) or section 201(f).

''(f) The officers and employees referred to in subsections (a), (d), and (e) are—

''(1) a Member of Congress as defined under section 109(10);

''(2) an officer or employee of the Congress as defined under section 109(11);

''(3) a judicial officer as defined under section 109(8); and

''(4) a judicial employee as defined under section 109(6).

''(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed 90 days.

''(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the congressional ethics committees or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

''(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

''(2) the report required by subsection (e) shall be filed as provided in such subsection.

''(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the supervising ethics office determines that—

''(1) such individual is not a full-time employee of the Government,

''(2) such individual is able to provide services specially needed by the Government,

''(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

''(4) public financial disclosure by such individual is not necessary in the circumstances.

"SEC. 102. CONTENTS OF REPORTS.

''(a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

''(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

''(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

''(i) Not more than $1,000.

''(ii) Greater than $1,000 but not more than $2,500.

''(iii) Greater than $2,500 but not more than $5,000.

''(iv) Greater than $5,000 but not more than $15,000.

''(v) Greater than $15,000 but not more than $50,000.

''(vi) Greater than $50,000 but not more than $100,000.

''(vii) Greater than $100,000 but not more than $1,000,000.

''(viii) Greater than $1,000,000 but not more than $5,000,000.

''(ix) Greater than $5,000,000.

''(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

''(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

''(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

''(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

''(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

''(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

''(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

''(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

''(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

''(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

''(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 2-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

''(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the 2 calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

''(i) the identity of each source of such compensation; and

''(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

''(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to—

''(A) future employment;

''(B) a leave of absence during the period of the reporting individual's Government service;

''(C) continuation of payments by a former employer other than the United States Government; and

''(D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

''(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995, and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

''(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

''(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

''(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

''(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

''(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

''(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

''(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

''(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are—

''(A) not more than $15,000;

''(B) greater than $15,000 but not more than $50,000;

''(C) greater than $50,000 but not more than $100,000;

''(D) greater than $100,000 but not more than $250,000;

''(E) greater than $250,000 but not more than $500,000;

''(F) greater than $500,000 but not more than $1,000,000;

''(G) greater than $1,000,000 but not more than $5,000,000;

''(H) greater than $5,000,000 but not more than $25,000,000;

''(I) greater than $25,000,000 but not more than $50,000,000; and

''(J) greater than $50,000,000.

''(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

''(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

''(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

''(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

''(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

''(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

''(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

''(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102 (a)(1)(B) and (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

''(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

''(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

''(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

''(A) any qualified blind trust (as defined in paragraph (3));

''(B) a trust—

''(i) which was not created directly by such individual, his spouse, or any dependent child, and

''(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

''(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

''(3) For purposes of this subsection, the term 'qualified blind trust' includes any

trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

''(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

''(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

''(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

''(C) The trust instrument which establishes the trust provides that—

''(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

''(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

''(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

''(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

''(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

''(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

''(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

''(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

''(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

''(F) Any trust qualified by a supervising ethics office before January 1, 1991, shall continue to be governed by the law and regulations in effect immediately before such effective date.

''(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

''(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

''(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

''(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

''(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

''(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

''(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to January 1, 1991, which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

''(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

''(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

''(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

''(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

''(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

''(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

''(i) notify his supervising ethics office of such dissolution, and

''(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

''(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

''(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within 5 days of the date of the communication.

''(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

''(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

''(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is

brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

''(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

''(7) Any trust may be considered to be a qualified blind trust if—

''(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

''(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

''(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

''(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

''(A)(i) the fund is publicly traded; or

''(ii) the assets of the fund are widely diversified; and

''(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

''(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

''(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

''(i) A reporting individual shall not be required under this title to report—

''(1) financial interests in or income derived from—

''(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

''(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

''(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

''SEC. 103. FILING OF REPORTS.

''(a) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

''(b)(1) The reports required under this title shall be filed by a reporting individual with—

''(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

''(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

''(ii) in the case of an officer or employee of the Congress as described under section 101(f)(2) who is employed by an agency or commission established in the legislative branch after November 30, 1989—

''(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

''(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

''(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (3) and (4) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

''(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

''(c) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 312(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

''(d)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

''(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

''(e) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

''SEC. 104. FAILURE TO FILE OR FILING FALSE REPORTS.

''(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

''(b) Each congressional ethics committee or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

''(c) A congressional ethics committee and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

''(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

''(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

''(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury.

''(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

''SEC. 105. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

''(a) The supervising ethics office of the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such office or with the Clerk or the Secretary of the Senate.

''(b)(1) Except as provided in the second sentence of this subsection, the supervising ethics office in the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within 30 days after any report is received under this title by such office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for

public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

''(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

''(A) that person's name, occupation, and address;

''(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

''(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

''(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109 (6) or (8) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshal Service, that revealing personal and sensitive information could endanger that individual.

''(B) A report may be redacted pursuant to this paragraph only—

''(i) to the extent necessary to protect the individual who filed the report; and

''(ii) for as long as the danger to such individual exists.

''(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

''(i) the total number of reports redacted pursuant to this paragraph;

''(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

''(iii) the types of threats against individuals whose reports are redacted, if appropriate.

''(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

''(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

''(c)(1) It shall be unlawful for any person to obtain or use a report—

''(A) for any unlawful purpose;

''(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

''(C) for determining or establishing the credit rating of any individual; or

''(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

''(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

''(d) Any report filed with or transmitted to a supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

''SEC. 106. REVIEW OF REPORTS.

''(a) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within 60 days after the date of such filing.

''(b)(1) If after reviewing any report under subsection (a), a person designated by the congressional ethics committee or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

''(2) If a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

''(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

''(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

''(3) If a person designated by a congressional ethics committee or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

''(A) divestiture,

''(B) restitution,

''(C) the establishment of a blind trust,

''(D) request for an exemption under section 208(b) of title 18, United States Code, or

''(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

''(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position appointment to which requires the advice and consent of the Senate but removal authority resides in the President, the matter shall be referred to the President for appropriate action.

''(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the congressional ethics committee or the Judicial Conference, for appropriate action.

''(6) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

''SEC. 107. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

''(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of the legislative or judicial branch shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, official codes of conduct or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

''(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

''(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

''(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

''(c) Nothing in this Act requiring reporting of information shall be deemed to authorize—

''(1) the receipt of income, gifts, or reimbursements;

''(2) the holding of assets, liabilities, or positions; or

''(3) the participation in transactions that are prohibited by law, rule, or regulation.

"SEC. 108. AUTHORITY OF COMPTROLLER GENERAL.

''(a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

''(b) Not later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

"SEC. 109. DEFINITIONS.

''For the purposes of this title, the term—

''(1) 'congressional ethics committees' means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

''(2) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

''(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

''(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

''(3) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

''(A) bequest and other forms of inheritance;

''(B) suitable mementos of a function honoring the reporting individual;

''(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

''(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

''(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

''(4) 'honoraria' has the meaning given such term in section 505 of this Act;

''(5) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

''(6) 'judicial employee' means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(7) 'Judicial Conference' means the Judicial Conference of the United States;

''(8) 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

''(9) 'legislative branch' includes—

''(A) the Architect of the Capitol;

''(B) the Botanic Gardens;

''(C) the Congressional Budget Office;

''(D) the General Accounting Office;

''(E) the Government Printing Office;

''(F) the Library of Congress;

''(G) the United States Capitol Police;

''(H) the Office of Compliance; and

''(I) any other agency, entity, office, or commission established in the legislative branch;

''(10) 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

''(11) 'officer or employee of the Congress' means—

''(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

''(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

''(ii) at least 1 principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(12) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

''(13) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

''(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

''(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

''(14) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

''(15) 'supervising ethics office' means—

''(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers, or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

''(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers, and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title; and

''(C) the Judicial Conference for judicial officers and judicial employees; and

''(16) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

"SEC. 110. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

''(a) In any case in which an individual agrees with a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

''(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

"SEC. 111. ADMINISTRATION OF PROVISIONS.

''The provisions of this title shall be administered by—

''(1) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (1) and (2) of section 101(f); and

''(2) the Judicial Conference in the case of an officer or employee described in paragraphs (3) and (4) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.''.

SEC. ____04. PUBLIC FINANCIAL DISCLOSURE FOR THE EXECUTIVE BRANCH.

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting after title I the following:

"TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 201. PERSONS REQUIRED TO FILE.

''(a) Within 30 days of assuming the position of an officer or employee described in

subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position described in subsection (f) of this section or section 101(f) of this Act within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

''(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 202(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

''(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

''(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President or Vice President or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

''(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).

''(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (f) or section 101(f).

''(f) The officers and employees referred to in subsections (a), (d), and (e) are—

''(1) the President;

''(2) the Vice President;

''(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

''(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

''(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

''(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service, each officer or employee of the United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(7) the Director of the Office of Government Ethics and each designated agency ethics official; and

''(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President.

''(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

''(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

''(i) the last day of the individual's service in such area during such designated period; or

''(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

''(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

''(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

''(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

''(2) the report required by subsection (e) shall be filed as provided in such subsection.

''(i) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the Director determines that—

''(1) such individual is not a full-time employee of the Government,

''(2) such individual is able to provide services specially needed by the Government,

''(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

''(4) public financial disclosure by such individual is not necessary in the circumstances.

''SEC. 202. CONTENTS OF REPORTS.

''(a) Each report filed pursuant to section 201 (d) and (e) shall include a full and complete statement with respect to the following:

''(1)(A) The source, description, and category of amount of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than $500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

''(B) The source, description, and category of amount or value of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value.

''(C) The categories for reporting the amount or value for income covered in subparagraphs (A) and (B) of this paragraph are—

''(i) greater than $500 but not more than $20,000;

''(ii) greater than $20,000 but not more than $100,000;

''(iii) greater than $100,000 but not more than $1,000,000;

''(iv) greater than $1,000,000 but not more than $2,500,000; and

''(v) greater than $2,500,000.

''(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

''(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

''(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

''(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.

''(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $20,000 at any time during the preceding calendar year, excluding—

''(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

''(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $20,000 as of the close of the preceding calendar year need be reported under this paragraph.

''(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if—

''(A) purchased, sold, or exchanged during the preceding calendar year;

''(B) the value of the transaction exceeded $5,000; and

''(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

''(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

''(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of $25,000 in the calendar year prior to or the calendar year in which the individual files his first report under this title, the individual shall include in the report—

''(i) the identity of each source of such compensation; and

''(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

''(C) Subparagraph (B) shall not require any individual to include in such report any information—

''(i) with respect to a person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless the individual was directly involved in the provision of such services;

''(ii) that is protected by a court order or is under seal; or

''(iii) that is considered confidential as a result of—

''(I) a privileged relationship established by a confidentiality agreement entered into at the time the person retained the services of the individual;

''(II) a grand jury proceeding or a non-public investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

''(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body.

''(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date of that agreement.

''(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

''(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by—

''(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

''(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

''(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

''(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director for a reporting individual.

''(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

''(c) In the case of any individual referred to in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

''(d)(1) The categories for reporting the amount or value of the items covered in paragraph (3) of subsection (a) are—

''(A) greater than $5,000 but not more than $15,000;

''(B) greater than $15,000 but not more than $100,000;

''(C) greater than $100,000 but not more than $1,000,000;

''(D) greater than $1,000,000 but not more than $2,500,000; and

''(E) greater than $2,500,000.

''(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

''(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

''(A) greater than $20,000 but not more than $100,000;

''(B) greater than $100,000 but not more than $500,000;

''(C) greater than $500,000 but not more than $1,000,000; and

''(D) greater than $1,000,000.

''(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 201 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

''(A) The sources of earned income earned by a spouse, including honoraria, which exceed $500, except that, with respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

''(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

''(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

''(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

''(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) are ones from which he neither derives, nor expects to derive, any financial or economic benefit.

''(F) Reports required by subsections (a), (b), and (c) of section 201 shall, with respect

to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

''(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

''(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

''(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

''(A) any qualified blind trust (as defined in paragraph (3));

''(B) a trust—

''(i) which was not created directly by such individual, his spouse, or any dependent child, and

''(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

''(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

''(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

''(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

''(I) is independent of and not affiliated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

''(I) is independent of and not affiliated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

''(C) The trust instrument which establishes the trust provides that—

''(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

''(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

''(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

''(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

''(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

''(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

''(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

''(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

''(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

''(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

''(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

''(I) the assets placed in the trust consist of a widely-diversified portfolio of readily marketable securities;

''(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

''(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

''(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

''(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

''(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

''(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

''(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

''(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

''(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

''(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

''(i) notify the Office of Government Ethics of such dissolution; and

''(ii) file with such office and his Designated Agency Ethics Official a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

''(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 205 and the provisions of that section shall apply with respect to such documents and lists.

''(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

''(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

''(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

''(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $11,000.

''(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,500.

''(7) Any trust may be considered to be a qualified blind trust if—

''(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

''(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

''(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

''(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

''(A)(i) the fund is publicly traded; or

''(ii) the assets of the fund are widely diversified; and

''(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

''(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 201 shall not be required to report the assets or sources of income of any publicly available investment fund if—

''(i) the identity of such assets and sources of income is not provided to investors;

''(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund; and

''(iii) the reporting individual—

''(I) does not otherwise have knowledge of the individual assets of the fund and provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

''(II) has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement.

The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 201.

''(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 201 if—

''(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

''(II) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

''(ii) An agreement described under clause (i)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

''(iii) Failure to divest within the time specified or within an extension period granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.

''(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

''(h) A report filed pursuant to subsection (a), (d), or (e) of section 201 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

''(i) A reporting individual shall not be required under this title to report—

''(1) financial interests in or income derived from—

''(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

''(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

''(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

''(j)(1) Every month each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

''(2) Every month the Office of Government Ethics shall make publicly available on the Internet—

''(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

''(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

''(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

''(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

''SEC. 203. FILING OF REPORTS.

''(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 201(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

''(b) The President, the Vice President and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code shall file reports required under this title with the Director of the Office of Government Ethics.

''(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2) (A) or (B), 106(a)(1) (A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions within the executive branch which require confirmation by the Senate shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

''(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

''(e) Each individual identified in section 201(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

''(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

''(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

''SEC. 204. FAILURE TO FILE OR FILING FALSE REPORTS.

''(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $11,000 or order the individual to file or report any information required by section 202 or both.

''(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official

has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

''(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

''(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

''(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

''(B) if a filing extension is granted to such individual under section 201(g), the last day of the filing extension period,

shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of $500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

''(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

''SEC. 205. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

''(a) Each agency and the Office of Government Ethics shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or Office except that this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest.

''(b)(1) Except as provided in the second sentence of this subsection, each agency and the Office of Government Ethics shall, within 30 days after any report is received under this title by such agency or Office, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 201(g). The agency or the Office of Government Ethics may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

''(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

''(A) that person's name, occupation, and address;

''(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

''(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

''(c)(1) It shall be unlawful for any person to obtain or use a report—

''(A) for any unlawful purpose;

''(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

''(C) for determining or establishing the credit rating of any individual; or

''(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

''(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

''(d) Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

''SEC. 206. REVIEW OF REPORTS.

''(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

''(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

''(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

''(A) believes additional information is required to be submitted to complete the report or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

''(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

''(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

''(A) divestiture,

''(B) restitution,

''(C) the establishment of a blind trust,

''(D) request for an exemption under section 208(b) of title 18, United States Code, or

''(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

''(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

''(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

''(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the designated agency ethics official of the United States Postal Service shall notify the Director of the Office of Government Ethics, who then shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

''(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

''SEC. 207. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

''(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection

by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 205 shall not apply with respect to any such report.

''(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

''(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

''(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

''(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

''SEC. 208. AUTHORITY OF COMPTROLLER GENERAL.

''The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

''SEC. 209. DEFINITIONS.

''For the purposes of this title, the term—

''(1) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

''(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

''(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

''(2) 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

''(3) 'executive branch' includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

''(4) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

''(A) bequest and other forms of inheritance;

''(B) suitable mementos of a function honoring the reporting individual;

''(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

''(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

''(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

''(5) 'honoraria' means a payment of money or anything of value for an appearance, speech, or article;

''(6) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

''(7) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

''(8) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

''(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

''(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

''(9) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

''(10) 'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

''(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

''(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

''(C) the Secretary of State, with respect to matters concerning the Foreign Service; and

''(11) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

''SEC. 210. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

''(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

''(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

''SEC. 211. ADMINISTRATION OF PROVISIONS.

''The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.''.

SEC. ____05. TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.

(a) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(b) TRANSMITTAL.—

(1) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(2) OTHER CANDIDATES.—After making transmittals under paragraph (1), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(c) CONTENT.—The record transmitted under this section shall provide—

(1) all positions which are appointed by the President, including the title and description of the duties of each position;

(2) the name of each person holding a position described under paragraph (1);

(3) any vacancy in the positions described under paragraph (1), and the period of time any such position has been vacant;

(4) the date on which an appointment made after the applicable Presidential election for any position described under paragraph (1) is necessary to ensure effective operation of the Government; and

(5) any other information that the Office of Personnel Management determines is useful in making appointments.

SEC. ___06. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.

(a) DEFINITION.—In this section, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(b) REDUCTION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The plan under this subsection shall provide for the reduction of—

(A) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(B) the number of levels of such positions within that agency.

SEC. ___07. OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(1) the President;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on the Judiciary of the Senate;

(4) the Committee on Government Reform of the House of Representatives; and

(5) the Committee on the Judiciary of the House of Representatives.

(b) CONTENT.—The report under this section shall—

(1) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(2) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. ___08. EFFECTIVE DATE.

(a) AMENDMENTS TO ETHICS IN GOVERNMENT ACT OF 1978.—

(1) IN GENERAL.—Subject to subsection (b), the amendments made by sections ___03 and ___04 shall take effect on January 1 of the year following the date of enactment of this title.

(2) LATER DATE.—If the date of enactment of this title is on or after July 1 of any calendar year, the amendments made by sections ___03 and ___04 shall take effect on July 1 in the year following the date of enactment of this title.

(b) OTHER PROVISIONS.—Sections ___01, ___02, ___05, ___06, and ___07 shall take effect on the date of enactment of this title.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following:

SEC. ___. USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take appropriate actions to ensure, to the maximum extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms ''imagery'' and ''geospatial information'' have the meanings given such terms in section 467 of title 10, United States Code.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, between lines 17 and 18, insert the following:

(4) The Director shall establish a national intelligence center under this section to be known as the Center for Alternative Intelligence Analysis. The Center for Alternative Intelligence Analysis shall have the mission specified in subsection (e).

On page 97, between lines 4 and 5, insert the following:

(e) MISSION OF CENTER FOR ALTERNATIVE INTELLIGENCE ANALYSIS.—(1) Notwithstanding subsection (d), the mission of the Center for Alternative Intelligence Analysis under subsection (a)(4) shall be to subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts and assumptions utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Center may also subject each document referred to in subparagraph (B), before the completion of such document, to a thorough examination as described in paragraph (1).

(B) The documents referred to in this subparagraph are as follows:

(i) A Senior Executive Intelligence Brief (SEIB).

(ii) An Indications and Warning (I&W) report.

(iii) Any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director for purposes of this subsection.

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Center shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''CAIA analysis'' of such estimate or document.

(5) The result of each examination of an estimate or document under this subsection shall be submitted to the following:

(A) The National Intelligence Director.

(B) The heads of other departments, agencies, and elements of the intelligence community designated by the President or the National Intelligence Director for purposes of this subsection.

(C) The congressional intelligence committees.

(6)(A) An examination under this subsection shall accompany each National Intelligence Estimate and any other document, report, assessment, or survey designated by the Director for purposes of this subsection.

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the documents, reports, assessments, and surveys, if any, designated by the Director under subparagraph (A).

On page 97, line 5, strike ''(e)'' and insert ''(f)''.

On page 97, line 19, strike ''(f)'' and insert ''(g)''.

On page 99, line 21, strike ''(g)'' and insert ''(h)''.

On page 99, line 22, insert ''(other than the Center for Alternative Intelligence Analysis)'' after ''a national intelligence center''.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IV—TOOLS TO FIGHT TERRORISM ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Tools to Fight Terrorism Act of 2004''.

Subtitle A—Anti-Terrorism Investigative Tools Improvement Act

SEC. 411. SHORT TITLE.

This subtitle may be cited as the ''Anti-terrorism Investigative Tools Improvement Act of 2004''.

SEC. 412. FISA WARRANTS FOR LONE-WOLF TERRORISTS.

Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following:

''(C) engages in international terrorism or activities in preparation therefore; or''.

SEC. 413. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: '', or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code''; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after ''violence'' the following: ''or

an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code,''.

SEC. 414. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.

Section 3583(j) of title 18, United States Code, is amended by striking '', the commission'' and all that follows through ''person,''.

SEC. 415. JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

''§ 2332g. Judicially enforceable terrorism subpoenas

''(a) AUTHORIZATION OF USE.—

''(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

''(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

''(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

''(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

''(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

''(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) SERVICE OF SUBPOENA.—

''(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

''(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

''(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

''(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

''(d) NONDISCLOSURE REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

''(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

''(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

''(C) other persons as permitted by the Attorney General.

''(2) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

''(3) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

''(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

''(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

''(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

''(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

''(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

''(g) REPORTING REQUIREMENT.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

''(1) the aggregate number of subpoenas issued under this section; and

''(2) the circumstances under which each such subpoena was issued.

''(h) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.''.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

''2332g. Judicially enforceable terrorism subpoenas.''.

SEC. 416. HOAXES RELATING TO TERRORIST OFFENSES.

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

''§ 1038. False information and hoaxes

''(a) CRIMINAL VIOLATION.—

''(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (as defined in section 1365 of this title, 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 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (as defined in section 1365 of this title, 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 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken,

is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(c) REIMBURSEMENT.—

''(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

''(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

''(d) ACTIVITIES OF LAW ENFORCEMENT.—This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following:

''1038. False information and hoaxes.''.

SEC. 417. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking ''be fined under this title or imprisoned not more than 5 years, or both'' and inserting ''be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both''.

(b) SENTENCING GUIDELINES.—Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

SEC. 418. AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking ''may'' and inserting ''shall''; and

(2) by striking ''a written statement to be inspected'' and inserting ''a statement to be considered''.

SEC. 419. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting ''(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))'' after ''authority of the United States'':

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

SEC. 420. EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339D. Terrorist offenses resulting in death

''(a) PENALTY.—A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

''(b) TERRORIST OFFENSE DEFINED.—In this section, the term 'terrorist offense' means—

''(1) international or domestic terrorism as defined in section 2331;

''(2) a Federal crime of terrorism as defined in section 2332b(g);

''(3) an offense under—

''(A) this chapter;

''(B) section 175, 175b, 229, or 831; or

''(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

''(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339D. Terrorist offenses resulting in death.''.

(c) AGGRAVATING FACTORS.—

(1) IN GENERAL.—Section 3591(a)(1) of title 18, United States Code, is amended by striking ''or section 2381'' and inserting '', 2339D, or 2381''.

(2) CONFORMING AMENDMENT.—Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking ''AND TREASON'' and inserting '', TREASON, AND TERRORISM''; and

(B) in paragraph (1)—

(i) in the section heading, by striking ''OR TREASON'' and inserting '', TREASON, OR TERRORISM''; and

(ii) by striking ''or treason'' and inserting '', treason, or terrorism''.

(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

''(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''.

SEC. 421. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

''§ 2339E. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339E. Denial of Federal benefits to terrorists.''.

SEC. 422. UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.

(a) TELEPHONE RECORDS.—Section 2709(d) of title 18, United States Code, is amended by striking ''for foreign'' and all that follows through ''such agency''.

(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

''(f) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.''.

(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.''.

(d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking ''for foreign'' and all that follows through ''such agency''.

(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking ''An agency'' and inserting the following: ''The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under this section only as provided in guidelines approved by the Attorney General. Any other agency''; and

(2) in paragraph (3), by striking ''clearly''.

SEC. 423. AUTHORIZATION TO SHARE NATIONAL-SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.

(a) INFORMATION OBTAINED IN NATIONAL SECURITY INVESTIGATIONS.—Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403–5d) is amended—

(1) in paragraph (1), by striking ''criminal investigation'' each place it appears and inserting ''criminal or national security investigation''; and

(2) by amending paragraph (2) to read as follows:

''(2) DEFINITIONS.—As used in this subsection—

''(A) the term 'foreign intelligence information' means—

''(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(I) the national defense or the security of the United States; or

''(II) the conduct of the foreign affairs of the United States; and

''(B) the term 'national security investigation'—

''(i) means any investigative activity to protect the national security; and

''(ii) includes—

''(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

''(II) the collection of foreign intelligence information.''.

(b) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking ''or state subdivision or of an Indian tribe'' and inserting '', state subdivision, Indian tribe, or foreign government'';

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: ''An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(ii) in clause (i)—

(I) by striking ''federal''; and

(II) by adding at the end the following: ''Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

''(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;''; and

(iii) in clause (iv), as redesignated—

(I) by striking ''state or Indian tribal'' and inserting ''State, Indian tribal, or foreign''; and

(II) by striking ''or Indian tribal official'' and inserting ''Indian tribal, or foreign government official''; and

(2) in paragraph (7), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''.

(c) CONFORMING AMENDMENT.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking ''Rule 6(e)(3)(C)(i)(V) and (VI)'' and inserting ''Rule 6(e)(3)(D)''.

SEC. 424. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting the following:

''(1) IN GENERAL.—Any person who'';

(2) by striking ''A violation'' and inserting the following:

''(3) PROSECUTION.—A violation'';

(3) by inserting after paragraph (1) the following:

''(2) ADDITIONAL OFFENSE.—

''(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

''(i) the offense occurs in or affects interstate or foreign commerce;

''(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

''(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

''(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

''(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(III) a stateless person whose habitual residence is in the United States;

''(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

''(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

''(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

''(b) DEFINITIONS.—As used in this section—

''(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

''(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

''(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.''.

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''Whoever, within the United States or subject to the jurisdiction of the United States,'' and inserting the following:

''(A) IN GENERAL.—Any person who''; and

(2) by adding at the end the following:

''(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

''(i) is a terrorist organization;

''(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

''(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).''.

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

''(d) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; or

''(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.''.

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

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

(2) by adding after subsection (f) the following:

''(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that

person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.''.

SEC. 425. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

''§ 2339F. Receiving military-type training from a foreign terrorist organization

''(a) OFFENSE.—

''(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

''(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

''(b) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; and

''(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—In this section:

''(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

''(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

''(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

''(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339F. Receiving military-type training from a foreign terrorist organization.''.

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking ''is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''; and

(2) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''.

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or''; and

(2) by striking subclause (V) and inserting the following:

''(V) is a member of—

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

''(bb) an organization which the alien knows or should have known is a terrorist organization,''.

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.''.

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

SEC. 426. WEAPONS OF MASS DESTRUCTION.

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

''(2)(A) against any person or property within the United States; and

''(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

''(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

''(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

''(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;'';

(B) in paragraph (3), by striking the comma at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(4) against any property within the United States that is owned, leased, or used by a foreign government,''; and

(2) in subsection (c)—

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

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

(C) by adding at the end the following:

''(3) the term 'property' includes all real and personal property.''.

(b) RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—

(1) IN GENERAL.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking ''CERTAIN'';

(B) in subsection (a), by striking ''(other than a chemical weapon as that term is defined in section 229F)''; and

(C) in subsection (b), by striking ''(other than a chemical weapon (as that term is defined in section 229F))''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking ''certain''.

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting ''(i)'' after ''(G)'';

(B) by striking ''or'' after the semicolon; and

(C) by adding at the end the following:

''(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;''; and

(2) in subparagraph (H), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))).''.

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) IN GENERAL.—Section 175b(a)(1) of title 18, United States Code, is amended by striking ''as a select agent in Appendix A'' and all that follows through the period and inserting ''as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

SEC. 427. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) ATOMIC ENERGY ACT.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking ''in the production of any special nuclear material'' and inserting ''or participate in the development or production of any special nuclear material or atomic weapon''.

(b) NUCLEAR WEAPON AND WMD THREATS.—

(1) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

''§ 838. Participation in nuclear and weapons of mass destruction threats to the United States

''(a) IN GENERAL.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

''(b) JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—As used in this section—

''(1) FOREIGN TERRORIST POWER.—The term 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

''(2) NUCLEAR WEAPON.—The term 'nuclear weapon' means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

''(3) NUCLEAR WEAPONS PROGRAM.—The term 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

''(4) WEAPONS OF MASS DESTRUCTION PROGRAM.—The term 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.''.

(c) ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)'' after ''nuclear materials),''.

Subtitle B—Prevention of Terrorist Access to Special Weapons Act

SEC. 431. SHORT TITLE.

This subtitle may be cited as the ''Prevention of Terrorist Access to Special Weapons Act of 2004''.

SEC. 432. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

''§ 2332h. Missile systems designed to destroy aircraft

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

''(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

''(ii) otherwise direct or guide the rocket or missile to an aircraft;

''(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

''(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

''(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

''(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2332h. Missile systems designed to destroy aircraft.''.

SEC. 433. ATOMIC WEAPONS.

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning ''a.'' before ''It'';

(2) inserting ''knowingly'' after ''for any person to'';

(3) striking ''or'' before ''export'';

(4) striking ''transfer or receive in interstate or foreign commerce,'' before ''manufacture'';

(5) inserting ''receive,'' after ''acquire,'';

(6) inserting '', or use, or possess and threaten to use,'' before ''any atomic weapon'';

(7) inserting at the end the following:

''b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

''(2) the offense is committed against a national of the United States while the national is outside the United States;

''(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.''.

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning ''a.'' before ''Whoever'';

(2) striking '', 92,''; and

(3) inserting at the end the following:

''b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

SEC. 434. RADIOLOGICAL DISPERSAL DEVICES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

''§ 2332i. Radiological dispersal devices

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any

person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

''(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

''(2) EXCEPTION.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2332i. Radiological dispersal devices.''.

SEC. 435. VARIOLA VIRUS.

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

''§ 175c. Variola virus

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

''(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

''175c. Variola virus.''.

SEC. 436. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting ''2122 and'' after ''sections'';

(2) in paragraph (c), by inserting ''section 175c (relating to variola virus),'' after ''section 175 (relating to biological weapons),'';

(3) in paragraph (q), by inserting ''2332h, 2332i,'' after ''2332f,''; and

(4) in paragraph (q), by striking ''or 2339C'' and inserting ''2339C, or 2339E''.

SEC. 437. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before ''2339 (relating to harboring terrorists)'' the following: ''2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices),'';

(B) by inserting ''175c (relating to variola virus),'' after ''175 or 175b (relating to biological weapons),''; and

(C) by inserting ''2339E (receiving military-type training from a foreign terrorist organization),'' after ''2339C (relating to financing of terrorism),''; and

(2) in clause (ii)—

(A) by striking ''section'' and inserting ''sections 92 (relating to prohibitions governing atomic weapons) or''; and

(B) by inserting ''2122 or'' before ''2284''.

SEC. 438. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after ''section 152 (relating to concealment of assets; false oaths and claims; bribery),'' the following: ''section 175c (relating to the variola virus),'';

(2) by inserting after ''section 2332(b) (relating to international terrorist acts transcending national boundaries),'' the following: ''section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices),''; and

(3) striking ''or'' after ''any felony violation of the Foreign Agents Registration Act of 1938,'' and after ''any felony violation of the Foreign Corrupt Practices Act'', striking ''.'' and inserting '', or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)''.

SEC. 439. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking ''or'' before ''(xi)''; and

(2) by inserting after clause (xi) the following: ''or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);''.

Subtitle C—Railroad Carriers and Mass Transportation Protection Act

SEC. 441. SHORT TITLE.

This subtitle may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

SEC. 442. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

''§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance

used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

''(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(f) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given to that term in section 2266;

''(16) the term 'toxin' has the meaning given to that term in section 178(2);

''(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

''(18) 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.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

Subtitle D—Reducing Crime and Terrorism at America's Seaports Act

SEC. 451. SHORT TITLE.

This subtitle may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

SEC. 452. 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:

''§ 26. 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 25 the following:

''26. Definition of seaport.''.

SEC. 453. 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. 454. 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. 455. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by 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.

''(7) 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)).

''(8) 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, biological, chemical, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. 456. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Part 1 of 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.''.

(b) 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. 457. 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. 458. 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. 459. 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. 460. 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.''.

Subtitle E—Combating Money Laundering and Terrorist Financing Act

SEC. 471. SHORT TITLE.

This subtitle may be cited as the ''Combating Money Laundering and Terrorist Financing Act of 2004''.

SEC. 472. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ''burglary, embezzlement,'' after ''robbery,'';

(2) in subparagraph (B), by—

(A) inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251'';

(B) striking ''1591'' and inserting ''1592'';

(C) inserting ''and 1470'' after ''1461–1465''; and

(D) inserting ''2252A,'' after ''2252,'';

(3) in subparagraph (D), by striking ''fraud in the sale of securities'' and inserting ''fraud in the purchase or sale of securities''; and

(4) in subparagraph (F), by inserting ''and 274A'' after ''274''.

(b) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(2) striking ''or any felony violation of the Foreign Corrupt Practices Act'' and inserting ''any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)''.

(c) CONFORMING AMENDMENTS.—

(1) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.''.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.''.

SEC. 473. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(1) in the caption by striking ''unlicensed'' and inserting ''illegal'';

(2) in subsection (a), by striking ''unlicensed'' and inserting ''illegal'';

(3) in subsection (b)(1), by striking ''unlicensed'' and inserting ''illegal''; and

(4) in subsection (b)(1)(C), by striking ''to be used to be used'' and inserting ''to be used''.

(b) PROHIBITION OF UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: '', whether or not the defendant knew that the operation was required to comply with such registration requirements''.

(c) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.''.

SEC. 474. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.

Section 981(a)(1)(G) of title 18, United States Code, is amended by—

(1) striking ''or'' at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting ''; or''; and

(3) inserting after clause (iii) the following:

''(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.''.

SEC. 475. MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

''(4) A transaction described in paragraph (1), or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.''.

SEC. 476. FINANCING OF TERRORISM.

(a) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

''(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

''(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

''(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).''.

(b) DEFINITION.—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

''(13) the term 'material support or resources' has the same meaning as in section 2339B(g)(4); and''.

SEC. 477. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) CRIMINAL FORFEITURE.—Section 982(b)(2) of title 18, United States Code, is amended, by striking ''The substitution'' and inserting ''With respect to a forfeiture under subsection (a)(1), the substitution''.

(b) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(1) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting '', as defined in section 24'' before the period.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''engages or attempts to engage in'' and inserting ''conducts or attempts to conduct''; and

(B) in subsection (f), by inserting the following after paragraph (3):

''(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.''.

(c) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking ''or'' the first time it appears and inserting '', a subpoena issued pursuant to section 1782 of title 28, or''.

(d) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ''(''' after ''2339C (relating to financing of terrorism''.

Subtitle F—Effective Date

SEC. 481. EFFECTIVE DATE.

Notwithstanding section 341, this title shall take effect on the date of enactment of this Act.

SA 3725. Mr. INHOFE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3726. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, strike line 21 and all that follows through page 137, line 23, and insert the following:

(6) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

(7) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(8) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) enabling connectivity between Federal and State agencies and civilian authorities and local first responders in the event of a terrorist attack or significant national disaster;

(D) building upon existing systems capabilities currently in use across the Government;

(E) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(F) employing an information access management approach that controls access to data rather than to just networks;

(G) facilitating the sharing of information at and across all levels of security by using

policy guidelines and technologies that support writing information that can be broadly shared;

(H) providing directory services for locating people and information;

(I) incorporating protections for individuals' privacy and civil liberties;

(J) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(K) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(L) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act;

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

SA 3727. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting ''security,'' after ''use,'';

(2) in section 11302(c), by inserting '', including information security risks,'' after ''risks'' both places it appears;

(3) in section 11312(b)(1), by striking ''information technology investments'' and inserting ''investments in information technology (including information security needs)''; and

(4) in section 11315(b)(2), by inserting '', secure,'' after ''sound''.

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''North Korean Human Rights Act of 2004''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.
Sec. 106. Establishment of regional framework.
Sec. 107. Special Envoy on Human Rights in North Korea.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is ''a dictatorship under the absolute rule of Kim Jong Il'' that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, ''[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter''.

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, ''[g]enuine religious freedom does not exist in North Korea'' and, according to the United States Commission on International Religious Freedom, ''[t]he North Korean state severely represses public and private religious activities'' with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere ''economic migrants'' and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term ''China'' means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term ''humanitarian assistance'' means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term ''North Korea'' means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term ''North Koreans'' means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term ''South Korea'' means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of

receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.

(a) FINDINGS.—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United Sates should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) SPECIAL ENVOY.—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the ''Special Envoy''). The Special Envoy should be a person of recognized distinction in the field of human rights.

(b) CENTRAL OBJECTIVE.—The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

(c) DUTIES AND RESPONSIBILITIES.—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) REPORT ON ACTIVITIES.—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) UNITED STATES ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that

describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the ''UNHCR Mission Agreement'');

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective ''first asylum'' policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; as follows:

On page 2, lines 22 and 23, strike ''for the purpose of aiding or facilitating the work of the United States Supreme Court,'' and insert ''pertaining to the history of the United States Supreme Court or its justices,''.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table; as follows:

In the table of contents, insert after the item relating to section 402 the following:

Sec. 403. Authorization of appropriations.

In section 2(26)(B)(ii), insert ''consistent with section 203(a) or as approved by the Secretary'' before the period at the end.

In section 3, strike subsections (a) and (b) and insert the following:

(a) NO PARTICIPATION BY THE UNITED STATES.—

(1) IN GENERAL.—No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision, so long as the matters in arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement concern aspects of the water rights of the Community, the San Carlos Irrigation Project, or the Miscellaneous Flow Lands (as defined in subparagraph 2.18A of the UVD agreement) and not the water rights of the United States in its own right, any other rights of the United States, or the water rights or any other rights of the United States acting on behalf of or for the benefit of another tribe.

(2) ARBITRATION INEFFECTIVE.—If an issue otherwise subject to arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement cannot be arbitrated or if an arbitration decision will not be effective because the United States cannot or will not participate in the arbitration, then the issue shall be submitted for decision to a court of competent jurisdiction, but not a court of the Community.

(b) PARTICIPATION BY THE SECRETARY.—Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.

In section 403(f)(2)(A) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), insert ''in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act)'' before the semicolon at the end;

In section 403(f)(2)(D) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), strike clauses (vi) and (vii) and insert the following:

''(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

''(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000; and

''(viii) to pay the Secretary's costs of implementing the Central Arizona Project Settlement Act of 2004;

In section 107(c), strike paragraphs (1) through (4) and insert the following:

(1) in section 403(g), by striking ''clause (c)(2)'' and inserting ''subsection (c)(2)''; and

(2) in section 403(e), by deleting the first word and inserting ''Except as provided in subsection (f), revenues''.

In section 203(c), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Gila River agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE GILA RIVER AGREEMENT.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Gila River agreement.

In section 203(d)(4)(B), strike clause (i) and insert the following:

(i) in accomplishing the work under the supplemental repayment contract—

(I) the San Carlos Irrigation and Drainage District—

(aa) may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law; and

(bb) shall be subject to the value engineering program of the Bureau of Reclamation established pursuant to OMB Circular A–131; and

(II) in accordance with FAR Part 48.101(b), the incentive returned to the contractor through this ''Incentive Clause'' shall be 55 percent after the Contractor is reimbursed for the allowable costs of developing and implementing the proposal and the Government shall retain 45 percent of such savings in the form of reduced expenditures;

In section 204(a)(4)(B), strike ''or the United States''.

In section 207(a)(4)(A), strike clauses (iv) and (v) and insert the following:

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law;

(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002; and

(vi) past, present, and future claims relating to failure to assert any claims expressly waived pursuant to section 207(a)(1) (C) through (E).

In section 207(a)(5)(A)(ii)(I), insert ''injuries to'' after ''claims for''.

In section 207(a)(5)(A)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In section 207(a)(5)(B)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In the matter preceding clause (i) of section 207(a)(5)(C), strike ''and the extent'' and all that follows through ''Globe Equity Decree'' and insert the following: ''and to the extent the United States holds legal title to (but not the beneficial interest in) the water rights as described in article V or VI of the Globe Equity Decree (but not on behalf of the San Carlos Apache Tribe pursuant to article VI(2) of the Globe Equity Decree)''.

In section 207(a)(5)(C)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In section 212(h), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—Upon execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT AND THE NEW MEXICO UNIT AGREEMENT.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement.

In section 309(h)(3) of the Southern Arizona Water Rights Settlement Act of 1982 (as amended by section 301 of the Committee amendment), strike subparagraphs (A) and (B) and insert the following:

''(A) ENVIRONMENTAL COMPLIANCE.—In implementing an agreement described in paragraph (2), the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

''(B) EXECUTION OF AGREEMENT.—Execution of an agreement described in paragraph (2) by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing an agreement described in paragraph (2).

Strike section 401 and insert the following:

SEC. 401. EFFECT OF TITLES I, II, AND III.

None of the provisions of title I, II, or III or the agreements, attachments, exhibits, or stipulations referenced in those titles shall be construed to—

(1) amend, alter, or limit the authority of—

(A) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or

(B) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102–575 (106 Stat. 4600, 4740); or

(2) amend or alter the CAP Contract for the San Carlos Apache Tribe dated December 11, 1980, as amended April 29, 1999.

At the end, add the following:

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) SAN CARLOS APACHE TRIBE.—There is authorized to be appropriated to assist the San Carlos Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive Gila River water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(b) WHITE MOUNTAIN APACHE TRIBE.—There is authorized to be appropriated to assist the White Mountain Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(c) OTHER ARIZONA INDIAN TRIBES.—There is authorized to be appropriated to the Secretary to assist Arizona Indian tribes (other than those specified in subsections (a) and (b)) in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Arizona Indian tribes, including soil and water technical analyses, legal, paralegal, and other related efforts, $300,000 for fiscal year 2006.

(d) NO LIMITATION ON OTHER FUNDING.—Amounts made available under subsections (a), (b), and (c) shall not limit, and shall be in addition to, other amounts available for Arizona tribal water rights negotiations leading to comprehensive water settlements.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr.

LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section shall take effect on the date of enactment of this Act.

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. UTILIZATION OF COMMERCIAL AND OTHER DATABASES.

(a) LIMITATION.—(1) Notwithstanding any other provision of law, no element of the intelligence community may conduct a search or other analysis for national security or intelligence purposes of a database based solely on a hypothetical scenario or hypothetical supposition of who may pose a threat to national security.

(2) The limitation in paragraph (1) shall not be construed to endorse or allow any other activity that involves use or access of databases referred to in subsection (b)(2)(A).

(b) REPORT ON USE OF DATABASES.—(1) The National Intelligence Director shall prepare, submit to the appropriate committees of Congress, and make available to the public a report, in writing, containing a detailed description of any use by any element of the intelligence community of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes, regardless of whether any compensation was paid for such database.

(2) The report under paragraph (1) shall include—

(A) a list of all contracts, memoranda of understanding, or other agreements entered into by element of the intelligence community for the use of, access to, or analysis of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes;

(B) the duration and dollar amount of such contracts;

(C) the types of data contained in each database referred to in subparagraph (A);

(D) the purposes for which each such database is used, analyzed, or accessed;

(E) the extent to which each such database is used, analyzed, or accessed;

(F) the extent to which information from each such database is retained by any element of the intelligence community, including how long the information is retained and for what purpose;

(G) a thorough description, in unclassified form, of any methodologies being used or developed by the element of the intelligence community concerned, to search, access, or analyze any such database;

(H) an assessment of the likely efficacy of such methodologies in identifying or locating criminals, terrorists, or terrorist groups, and in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists, or terrorist groups;

(I) a thorough discussion of the plans for the use of such methodologies;

(J) a thorough discussion of the activities of the personnel, if any, of the department, agency, or element concerned while assigned to the National Counterterrorism Center; and

(K) a thorough discussion of the policies, procedures, guidelines, regulations, and laws, if any, that have been or will be applied in the access, analysis, or other use of the databases referred to in subparagraph (A), including—

(i) the personnel permitted to access, analyze, or otherwise use such databases;

(ii) standards governing the access, analysis, or use of such databases;

(iii) any standards used to ensure that the personal information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate Government purpose;

(iv) standards limiting the retention and redisclosure of information obtained from such databases;

(v) procedures ensuring that such data meets standards of accuracy, relevance, completeness, and timeliness;

(vi) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(vii) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongfully incurred due to the access, analysis, or use of such databases;

(viii) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(ix) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases.

(c) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The term ''database'' means any collection or grouping of information about individuals that contains personally identifiable information about individuals, such as individual's names, or identifying numbers, symbols, or other identifying particulars associated with individuals, such as fingerprints, voice prints, photographs, or other biometrics. The term does not include telephone directories or information publicly available on the Internet without fee.

SA 3734. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE _____

SECTION 1. SHORT TITLE.

This title may be cited as the ''Terrorism Victim Compensation Equity Act''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) DEFINITIONS.—Section 402(4) is amended by inserting '', related to the bombings of United States embassies in East Africa on August 7, 1998, related to the attack on the U.S.S. Cole on October 12, 2000, or related to the attack on the World Trade Center on February 26, 1993'' before the period.

(b) PURPOSE.—Section 403 is amended by inserting '' or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993'' before the period.

(c) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—

(1) CLAIM FORM CONTENTS.—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting '', the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993'' before the semicolon;

(B) in clause (ii), by inserting ''or bombings'' before the semicolon; and

(C) in clause (iii), by inserting ''or bombings'' before the period.

(2) LIMITATION.—Section 405(a)(3) is amended by striking ''2 years'' and inserting ''4 years''.

(3) COLLATERAL COMPENSATION.—Section 405(b)(6) is amended by inserting '', the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993'' before the period.

(4) ELIGIBILITY.—

(A) INDIVIDUALS.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting '', was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998, was on the U.S.S. Cole on October 12, 2000, or was present at the World Trade Center on February 26, 1993 at the time of the bombings of that building'' before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

''(ii) suffered death as a result of such an air crash or suffered death as a result of such a bombing;''.

(B) REQUIREMENTS.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting ''RELATING TO SEPTEMBER 11TH TERRORIST ACTS'' before the period; and

(ii) by adding at the end the following:

''(C) LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained by the claimant as a result of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

''(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993.

''(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(E) VICTIMS OF BOMBINGS OF UNITED STATES EMBASSIES IN EAST AFRICA.—An individual who suffered death as a result of a bombing or attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that bombing or attack, unless that individual is or was a United States citizen.''.

(C) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

''(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993.''.

(D) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

''(5) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member.''.

SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the September 11th Victims Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SA 3735. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the ''Network'') to be used by Federal, State, and local public safety and homeland security personnel.

(b) CONSULTATION AND USE OF EXISTING TECHNOLOGIES.—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) SPECTRUM ALLOCATION.—

(1) PLAN.—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the ''Administrator''), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(2) SOURCE OF SPECTRUM.—The spectrum dedicated under paragraph (1)—

(A) may be reclaimed from existing Federal, State, or local public safety users;

(B) may be comprised of spectrum which is not currently being utilized; or

(C) may be comprised of any combination of spectrum described in subparagraphs (A) and (B).

(d) REPORTING REQUIREMENT.—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

SA 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 10 through 16 and insert the following:

(3) The term ''counterintelligence'' means information gathered, and activities conducted to protect against—

(A) international terrorist activities;

(B) espionage, economic espionage, other intelligence activities, the proliferation of

weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

(C) any other criminal activities involved in or related to such threats to the national security.

On page 6, strike lines 7 through 18 and insert the following:

(5) The terms ''national intelligence'' and ''intelligence related to the national security'' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

(A) threats to the United States, its people, property, or interests;

(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

(C) any other matter bearing on the national security or homeland security of the United States.

On page 196, beginning on line 20, strike ''**FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE**'' and insert ''**FOREIGN INTELLIGENCE, COUNTERINTELLIGENCE, AND NATIONAL INTELLIGENCE**''.

On page 197, strike lines 4 through 7 and insert the following:

(2) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) The term 'counterintelligence' means information gathered, and activities conducted to protect against—

''(A) international terrorist activities;

''(B) espionage, economic espionage, other intelligence activities, the proliferation of weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

''(C) any other criminal activities involved in or related to such threats to the national security.''; and

(3) by striking paragraph (5) and insert the following new paragraph (5):

''(5) The terms 'national intelligence' and 'intelligence related to the national security' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

''(A) threats to the United States, its people, property, or interests;

''(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

''(C) any other matter bearing on the national security or homeland security of the United States.''.

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike lines 21 through 23 and insert the following:

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community, including (but not limited to) all programs, projects, and activities of the elements of the intelligence community that are within the National Foreign Intelligence Program as of the date of the enactment of this Act;

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, beginning on line 18, strike '', including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act,''.

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic productions, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, between lines 3 and 4, insert the following:

(16) ensure that intelligence (including unevaluated intelligence), the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

On page 18, line 4, strike ''(14)'' and insert ''(17)''.

On page 18, line 7, strike ''(15)'' and insert ''(18)''.

On page 18, line 14, strike ''(16)'' and insert ''(19)''.

On page 18, line 17, strike ''(17)'' and insert ''(20)''.

On page 18, line 20, strike ''(18)'' and insert ''(21)''.

On page 19, line 5, strike ''(19)'' and insert ''(22)''.

On page 19, line 7, strike ''(20)'' and insert ''(23)''.

On page 20, strike lines 12 through 14 and insert the following:

shall have access to all intelligence and, consistent with subsection (k), any other information which is collected by, possessed by, or under the control of any department, agency, or other element of the United States Government when necessary to carry out the duties and responsibilities of the Director under this Act or any other provision of law.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(19)''.

On page 31, strike line 22 and insert the following:

ensures information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.

On page 32, beginning on line 3, strike ''information-sharing'' and all that follows through line 4 and insert ''information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.''.

On page 32, line 16, insert ''AND ANALYSIS'' after ''COLLECTION''.

On page 32, line 19, insert ''and analysis'' after ''collection''.

On page 32, beginning on line 21, strike ''the head of each element of the intelligence community'' and insert ''the head of any department, agency, or element of the United States Government, and the components and programs thereof,''.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(18) and (19)''.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(13)''.

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 9 line 13, insert ''and intelligence'' after ''counterterrorism''.

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 1, strike ''may require modifications'' and insert ''may modify, or may require modifications,''.

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike ''or'' and insert ''and''.

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of law, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the

provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term ''appropriate congressional committees'' means—

(A) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(3) The term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike ''**114.**'' and insert ''**115.**''.

On page 35, line 1, strike ''**115.**'' and insert ''**116.**''.

On page 38, line 21, strike ''**116.**'' and insert ''**117.**''.

On page 40, line 10, strike ''**117.**'' and insert ''**118.**''.

On page 43, line 1, strike ''**118.**'' and insert ''**119.**''.

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENT ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by adding ''and'' at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

On page 200, line 19, strike ''**309.**'' and insert ''**310.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**311.**''.

On page 203, line 9, strike ''**311.**'' and insert ''**312.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**313.**''.

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 32, between lines 19 and 20, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

On page 43, after line 20, add the following:

(e) TERMINATION.—Upon the transfer under subsection (d) of all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency, the Reserve for Contingencies of the Central Intelligence Agency shall be terminated.

On page 179, strike lines 1 through 4 and insert the following:

''(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add ''and'' at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike ''(4)'' and insert ''(3)''.

On page 181, strike lines 1 through 10.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike ''or'' and insert ''and''.

On page 112, beginning on line 12, strike ''Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives'' and insert ''Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives''.

On page 172, strike line 18 and all that follows through page 174, line 23, and insert the following:

SEC. 224. COMMUNICATIONS WITH CONGRESS.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike lines 4 through 9 and insert the following:

(B) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(C) The Assistant Secretary of State for Intelligence and Research.

(D) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(E) The Assistant Secretary for Terrorist Financing of the Department of the Treasury.

(F) The Director of the Defense Intelligence Agency.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(H) The Executive Assistant Director for Counterterrorism and Counterintelligence of the Federal Bureau of Investigation.

(I) The Director of the Office of Intelligence of the Department of Energy.

(J) The Director of the Office of Counterintelligence of the Department of Energy.

(K) The Assistant Commandant of the Coast Guard for Intelligence.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 19 and 20, insert the following:

(k) TERMINATION OR REASSIGNMENT OF OFFICERS AND EMPLOYEES WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1)(A) Notwithstanding any other provision of law, the National Intelligence Director may, at the discretion of the Director, terminate the employment of any civilian officer or employee of any element of the intelligence community within the National Intelligence Program whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(B) Any termination of employment of an officer or employee under subparagraph (A) shall not affect the right of the officer or employee to seek or accept employment in any department or agency of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(2) The Secretary of Defense shall, upon the request of the Director, reassign any member of the Armed Forces serving in a position in an element of the intelligence community within the National Intelligence Program to a position outside the National Intelligence Program whenever the Director considers the reassignment of such member necessary or advisable in the interests of the United States.

(3) Before taking any action under paragraph (1) or (2), the Director shall provide reasonable notice to the head of the element

of the intelligence community to which the civilian officer or employee concerned, or member of the Armed Forces concerned, is assigned. The head of the element of the intelligence community concerned may recommend alternative actions to termination or reassignment, and the Director may take such recommendations into account in taking any such action.

(4) The Director may delegate an authority of the Director under this subsection only to the Principal Deputy National Intelligence Director.

(5) Any action of the Director, or the delegee of the Director, under this subsection shall not be subject to judicial review.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 20, add the following:

SEC. 119. ADMINISTRATIVE AUTHORITIES.

(a) EXERCISE OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may exercise with respect to the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(b) DELEGATION OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may delegate to the head of any other element of the intelligence community with a program, project, or activity within the National Intelligence Program for purposes of such program, project or activity any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities of the Director of the Central Intelligence Agency specified in this subsection are the authorities under the Central Intelligence Agency Act of 1949 as follows:

(1) Section 3 (50 U.S.C. 403c), relating to procurement.

(2) Section 4 (50 U.S.C. 403e), relating to travel allowances and related expenses.

(3) Section 5 (50 U.S.C. 403f), relating to administration of funds.

(4) Section 6 (50 U.S.C. 403g), relating to exemptions from certain information disclosure requirements.

(5) Section 8 (50 U.S.C. 403j), relating to availability of appropriations.

(6) Section 11 (50 U.S.C. 403k), relating to payment of death gratuities.

(7) Section 12 (50 U.S.C. 403l), relating to acceptance of gifts, devises, and bequests.

(8) Section 21 (50 U.S.C. 403u), relating to operation of a central services program.

(d) EXERCISE OF DELEGATED AUTHORITY.—Notwithstanding any other provision of law, the head of an element of the intelligence community delegated an authority under subsection (b) with respect to a program, project, or activity may exercise such authority with respect to such program, project, or activity to the same extent that the Director of the Central Intelligence Agency may exercise such authority with respect to the Central Intelligence Agency.

On page 108, line 12, strike ''(1)''.

On page 108, line 19, strike ''(2)'' and insert ''(b) DEPOSIT OF PROCEEDS.—''.

On page 108, strike line 23 and all that follows through page 109, line 3.

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19, insert ''regular and detailed'' before ''reviews''.

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert ''(A)'' after ''(5)''.

On page 80, line 3, strike '', upon request,''.

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Ombudsman may make recommendations to the National Intelligence Director, and to the heads of the elements of the intelligence community, for such personnel actions as the Ombudsman considers appropriate in light of the evaluations, including awards, commendations, reprimands, additional training, or disciplinary action.

On page 80, line 6, strike ''INFORMATION.—'' and insert ''INFORMATION AND PERSONNEL.—(1)''.

On page 80, line 8, insert '', the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority'' after ''Authority''.

On page 80 line 10, insert ''operational and'' before ''field reports''.

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, strike lines 19 through 24 and insert the following:

(c) SCOPE OF POSITION.—(1) The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority and the National Intelligence Program and for the relationships between any element of the intelligence community within the National Intelligence Program and any other element of the intelligence community.

(2) The General Counsel shall, in coordination with the Attorney General, serve as the chief legal authority of the executive branch on the effect on intelligence and intelligence-related activities of the United States Government of the Constitution, laws, regulations, Executive orders and implementing guidelines of the United States and of any other law, regulation, guidance, policy, treaty, or international agreement.

(d) DUTIES AND RESPONSIBILITIES.—The General Counsel of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in carrying out the responsibilities of the Director to ensure that—

(A) the intelligence community is operating as authorized by the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(B) the intelligence community is operating in compliance with any directives, policies, standards, and guidelines issued by the Director; and

(C) the intelligence community has all authorities necessary to provide timely and relevant intelligence information to the President, other policymakers, and military commanders;

(2) coordinate the legal programs of the elements of the intelligence community within the National Intelligence Program;

(3) coordinate with the Department of Justice to ensure that the activities of the intelligence community are consistent with the obligations of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(4) in consultation with the Department of Justice, interpret, and resolve all conflicts in the interpretation or application of, the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States to the intelligence and intelligence-related activities of the United States Government;

(5) recommend to the Director directives, policies, standards, and guidelines relating to the activities of the intelligence community;

(6) review, on an annual basis, in coordination with the heads of the elements of the intelligence community, the legal programs of each element of the intelligence community to determine if charges or modifications to authorities under such programs are required;

(7) provide legal guidance, which shall be dispositive within the executive branch, to the Department of State, the Department of Justice, and other departments, agencies, and elements of the United States Government on the effect of the implementation

and interpretation of treaties and other international agreements on the intelligence and intelligence-related activities of the United States Government; and

(8) perform such other duties as the Director may specify.

On page 53, line 8, insert ''in consultation with the General Counsel of the National Intelligence Authority,''.

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, line 16, strike ''and'' at the end.

On page 87 between lines 16 and 17, insert the following:

(D) ensure that intelligence (including unevaluated intelligence) concerning suspected terrorists, their organizations, and their capabilities, plans, and intentions, the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis with the Directorate and by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

(E) conduct, or direct through the National Intelligence Director an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(F) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination;

(G) ensure the dissemination of Directorate intelligence products to the President, to Congress, to the heads of other departments and agencies of the executive branch, to the Chairman of the Joint Chiefs of Staff and senior military commanders, and to such other persons or entities as the President shall direct; and

On page 87, line 17, strike ''(D)'' and insert ''(H)''.

On page 96, line 16, strike ''foreign''.

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403–5(a)) is amended—

(1) in paragraph (1), by striking ''ensure'' and inserting ''assist the Director in ensuring''; and

(2) in paragraph (2), by striking ''appropriate''.

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 15 and 16, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

On page 179, strike line 21 and all that follows through page 180, line 6.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 181, strike lines 1 through 10.

SA 3754. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 3 and 4, insert the following:

(d) RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike ''(d)'' and insert ''(f)''.

On page 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 179, strike lines 1 through 4 and insert the following:

''(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add ''and'' at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike ''(4)'' and insert ''(3)''.

On page 181, strike lines 1 through 10.

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a)(1), by striking ''ensure'' and inserting ''assist the Director in ensuring''; and

(2) in subsection (b)—

(A) by striking paragraphs (1), (2), and (3);

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(C) in paragraph (1), as so redesignated, by striking ''or the National Security Council)'' and inserting '', the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law))''; and

(D) in paragraph (2), as so redesignated, by striking ''Department of Defense human intelligence activities, including''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 28, 2004, at 10 a.m., to conduct a hearing on ''policies to enforce the bank secrecy act and prevent money laundering in money services businesses and the gaming industry.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on September 28, 2004, at 9:30 a.m. on Media Ownership.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 28, 2004, at 2:30 p.m. to hold a hearing on Combating Corruption in the Multilateral Development Banks (III).

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, September 28, 2004, from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 28, 2004, at 2:30 p.m. on Effectiveness of Media Ratings Systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEED AMERICA THURSDAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 440, which was submitted earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 440) designating Thursday, November 18, 2004, as Feed America Thursday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 440) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as ''Feed America Thursday''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO OPENING OF NATIONAL MUSEUM OF AMERICAN INDIANS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 439 submitted earlier today by Senators FEINGOLD and KOHL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 439) recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 439) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 438 submitted earlier today by Senators BIDEN, HATCH, KOHL, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 438) supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the

United States and its devastating effects on families.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 438) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

ENCOURAGING THE INTERNATIONAL OLYMPIC COMMITTEE TO SELECT NEW YORK CITY AS THE SITE OF THE 2012 OLYMPIC GAMES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 475, at the desk, and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 475) encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. FRIST. I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, any statements be printed in the RECORD, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 475) was agreed to.

The preamble was agreed to.

COASTAL BARRIER RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent the Chair now lay before the Senate the House message to accompany S. 1663.

The PRESIDING OFFICER laid before the Senate the following message:

S. 1663

Resolved, That the bill from the Senate (S. 1663) entitled ''An Act to replace certain Coastal Barrier Resources System maps'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 2 maps subtitled ''NC–07P'', relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Cape Fear Unit NC–07P, that are included in the set of maps entitled ''Coastal Barrier Resources System'' and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), are hereby replaced by 2 other maps relating to those units entitled ''Coastal Barrier Resources System Cape Fear Unit, NC–07P'' and dated May 5, 2004.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZATION OF THE TROPICAL FOREST CONSERVATION ACT OF 1998

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 4654 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4654) to authorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4654) was read the third time and passed.

MEASURES READ THE FIRST TIME—S. 2852, H.R. 1084, AND H.R. 1787

Mr. FRIST. Mr. President, I understand there are three bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title en bloc.

The legislative clerk read as follows:

A bill (S. 2852) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

A bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

A bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

Mr. FRIST. Mr. President, I now ask for their second reading, and in order to place the bills on the calendar under provisions of rule XIV, I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

SUPREME COURT AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 707, S. 2742.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2742) to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts ''pertaining to the history of the Supreme Court of the United States or its justices.'' The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court authority to accept gifts but it would narrow the types of gifts that can be received to historical items. I think this provision strikes the proper balance.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely Federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

Mr. FRIST. Mr. President, I ask unanimous consent that the Hatch amendment at the desk be agreed to, that the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3729) was agreed to, as follows:

(Purpose: To provide for authority to accept gifts pertaining to the history of the Supreme Court, and for other purposes)

On page 2, lines 22 and 23, strike ''for the purpose of aiding or facilitating the work of the United States Supreme Court,'' and insert ''pertaining to the history of the United States Supreme Court or its justices,''.

The bill (S. 2742), as amended, was read the third time and passed, as follows:

S. 2742

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

SECTION 1. EXTENSION OF AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.

Section 6121(b)(2) of title 40, United States Code, is amended by striking ''2004'' and inserting ''2008''.

SEC. 2. VENUE FOR PROSECUTIONS RELATING TO THE UNITED STATES SUPREME COURT BUILDING AND GROUNDS.

Section 6137 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.''.

SEC. 3. GIFTS TO THE UNITED STATES SUPREME COURT.

The Chief Justice or his designee is authorized to accept, hold, administer, and utilize gifts and bequests of personal property pertaining to the history of the United States Supreme Court or its justices, but gifts or bequests of money shall be covered into the Treasury.

MEASURE REFERRED—H.R. 3428

Mr. FRIST. I ask unanimous consent that H.R. 3428, a bill to designate a portion of the U.S. courthouse located at 2100 Jamieson Avenue in Alexandria, VA, as the ''Justin W. Williams United States Attorney's Building'' which is on the calendar, be referred to the committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: No. 690 and all nominations on the Secretary's desk with NOAA and the Public Health Service.

I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK

DEPARTMENT OF DEFENSE

Dionel M. Aviles, of Maryland, to be Under Secretary of the Navy.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1977 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (124) beginning Jonathan W. Bailey, and ending Richard A. Edmundson, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PN1978 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (29) beginning Timothy J. Gallagher, and ending Bernerd R. Archer, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PUBLIC HEALTH SERVICE

PN1511 PUBLIC HEALTH SERVICE nominations (224) beginning Terence L. Chorba, and ending Parmjeet S. Saini, which nominations were received by the Senate and appeared in the Congressional Record of April 8, 2004.

PN1632 PUBLIC HEALTH SERVICE nominations (2) beginning Daniel Molina, and ending James D. Warner, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1633 PUBLIC HEALTH SERVICE nominations (8) beginning Songhai Barclift, and ending Gregory Woitte, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1634 PUBLIC HEALTH SERVICE nominations (652) beginning Alvin Abrams, and ending Ariel E. Vidales, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, SEPTEMBER 29, 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 Wednesday, September 29. 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, and the Senate then resume consideration of S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. We had very good debate on the bill today, disposing of two very important amendments. We also had good debate on the pending Specter intelligence consolidation amendment today as well. We would like to get a reasonable time agreement for that amendment and vote early tomorrow morning. Tomorrow we will lock in an amendment list to this bill. This is the first step in the process for the Senate to show the commitment to finish this bill.

Further, we need to reach an agreement to have amendments filed at the desk so that all Members will be able to see legislative text. We will do this at some point, I am quite sure, late tomorrow afternoon. I have talked about the scheduling changes that confront the Senate this week. In order to complete this important bill, we will need Senators to make themselves available to offer their amendments and to agree to reasonable debate times.

I will continue consulting with the Democratic leader as to the voting schedule for the remainder of the week and next week. It is clear that this cannot be business as usual. It is a very important bill before the Senate. We have a number of issues in terms of appropriations, continuing resolutions, extensions on other bills that have to be dealt with over the coming days. I continue to ask all our Members to be prepared to adapt their schedules for this extraordinary piece of legislation that is in the Senate as well as these other pieces of legislation coming before the Senate.

I had the opportunity over the course of today to talk to the Democratic leadership as well as members of our caucus and other Members of the Senate, and it is clear that we have a lot of work to do in a short period of time. Thus, even though we will do our very best to work around individual Members' schedules, we will have to change the pace of the last several weeks or several months, meaning the potential for voting on Friday, voting for sure on Monday. Suggestions have even come forward that in order to meet all of our objectives on all these bills before our departure on October 8 we should even consider working through this Saturday and Sunday.

I mention all of those, and no decisions have been made except that the fact that so many people are coming forward to say we have a lot to do means we will have to vote through this week every day starting right at 9:30. We will not have morning business tomorrow. We will go straight into the bill and continue through Wednesday, Thursday, Friday and, clearly, have a full working day on Monday as well.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say through the Chair, Senator DASCHLE has met with Senator FRIST on more than one occasion today. These are extraordinary times. Not only do we have a Presidential election, but these are extraordinary times because of the threat facing our country.

This legislation, the two leaders believe, should be expedited. It deals with that very threat. Everyone should listen very closely to what the majority leader said. That is, we have to take a look at Friday, weekend, Monday. This is for real. We are running out of time. The two leaders agree that we have to work very hard to complete the agenda we have ahead of us, which is a lot in a very short period of time.

Mr. FRIST. Mr. President, in closing, I thank Chairman WARNER for assisting in getting the Under Secretary of the Navy confirmed today—tonight. The Under Secretary reported out on May 12, 2004. I thank our distinguished colleague for working so hard and assisting in getting this accomplished tonight.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:22 p.m., adjourned until Wednesday, September 29, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 2004:

DEPARTMENT OF DEFENSE

DIONEL M. AVILES, OF MARYLAND, TO BE UNDER SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING JONATHAN W. BAILEY AND ENDING RICHARD A. EDMUNDSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING TIMOTHY J. GALLAGHER AND ENDING BERNERD R. ARCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING TERENCE L. CHORBA AND ENDING PARMJEET S. SAINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 8, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING DANIEL MOLINA AND ENDING JAMES D. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING SONGHAI BARCLIFT AND ENDING GREGORY WOITTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ALVIN ABRAMS AND ENDING ARIEL E. VIDALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

EXTENSIONS OF REMARKS

CELEBRATING THE LIFE OF BIRDELLA STORMENT

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to pay special tribute to the life of Birdella Storment, known as ''Birdie'' to those of us who knew and respected her.

''Birdie'' was born on April 22, 1912 in Weston, Illinois, the daughter of Edgar and Kathryn. She married Eugene Lester Storment on December 25, 1936 in Peoria, Illinois.

Birdie's life consisted of her love of family, friends, her church, and her country. She was an active member of the New Bethel Presbyterian Church and chaired the Presbyterian Women's Club.

She was a lifelong member of the Republican Party, a precinct committeeman in Stevenson Township for more than 50 years, a county chairwoman, and the President of the Salem Women's Republican Club.

Her civic contributions were secondary only to her devotion to her family. She and Eugene were the parents of Nita Rae Wadley and Larry Storment. They have seven grandchildren, eight great grandchildren, and five great-great grandchildren.

At her passing on September 9 of this year, Birdie was recognized as one of the people who helped to pioneer the involvement of women in today's political arena. More important though, she was recognized as a beloved mother, grandmother and friend to all who had the privilege to know her.

My condolences go to her family and friends. May God bless Birdie and Eugene and may God continue to bless this country that they loved so much.

TRIBUTE TO DANIEL CRAIG MYERS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in honor of Daniel Craig Myers, a young man who embodies the American principles of hard work, dedication to one's family, and service to one's country. He exudes positive energy and spirit, even through troubled times, which radiate to friends, family, community, and country.

Daniel Myers has been exceptionally active in his local high school: leading his fellow students as part of the student government; participating in numerous school activities; and receiving numerous awards for brilliant academic success. Daniel graduated from Fowlerville High School on June 6, 2004 with honors as Magna Cum Laude.

Daniel's service to his community as part of the Order of DeMolay has been tremendous. He has been involved in his state's DeMolay since 1997, and has held numerous offices. This past August, Daniel was elected as the 69th State Master Councilor of Michigan, the highest elected position possible in the state's DeMolay. Elected by his peers, the State Master Councilor is responsible for representing hundreds of members throughout the state, and overseeing all local chapter activities.

Mr. Speaker, it is a great privilege to honor Daniel C. Myers today for his dedication and leadership within his community. Daniel is an inspiring role model for the young people of this country, and I wish him the best in his future endeavors.

IN HONOR OF THE GLENDALE ASSOCIATION FOR THE RETARDED'S DEDICATION TO THE GLENDALE COMMUNITY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate the Glendale Association for the Retarded for 50 years of outstanding service to the Glendale community.

Since 1954, the Glendale Association for the Retarded has provided exceptional services to persons with developmental disabilities. Over the years, GAR has met the changing needs of men and women from the time they were in grade school to their retirement years. The progress that individuals have made as a result of their time spent with GAR is incredible. Some of those who have participated in GAR's programs as youngsters now live in group homes, have jobs, and participate in community activities.

Today, the Association serves 63 adults with vocational training, job placement, adult living skills instruction, recreational activities, residential placement, and a community integration program. Individuals are integrated into the community by competitive employment placements. Work opportunities are offered in the areas of mailings, assembly, recycling, collating, and packaging or by work crews at business sites. GAR provides a comfortable, secure, and loving atmosphere while helping residents develop living skills that will aid them to become more productive and independent.

I ask all Members of Congress to join me today in congratulating the Glendale Association for the Retarded on 50 years of exemplary public service, and for its immense commitment to the empowerment and success of the City of Glendale and its residents.

HONORING CECELIA CUNNINGHAM AND JANET E. LIEBERMAN FOR LIFELONG COMMITMENT TO EDUCATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to congratulate Drs. Cecelia Cunningham and Janet E. Lieberman who tonight will receive the prestigious Harold W. McGraw Jr. Prize in Education. Dr. Cunningham founded the Middle College National Consortium at LaGuardia Community College. Dr. Lieberman founded the Middle College High School and co-founded the Early College High School at LaGuardia Community College.

Along with Drs. Cunningham and Lieberman, Robert Moses and Geoffrey Canada are being honored during an awards ceremony at the New York Public Library. The four have been chosen to receive the prestigious 17th annual award for dedicating themselves to closing the achievement gap. These individuals have worked tirelessly and creatively to give children with few advantages the opportunity to achieve, both academically and ultimately professionally.

Dr. Cunningham has spent her entire career educating children and firmly believes all children should be given the opportunity to succeed. This belief is what brought her more than twenty years ago to Middle College High School, an innovative approach to educating at risk students, where Dr. Cunningham served as principal. Out of her work with Middle College High School, Dr. Cunningham founded the Middle College National Consortium to provide professional development for secondary and postsecondary educators who work with underserved students.

Dr. Lieberman believes that you should never underestimate the power of an idea. This belief, combined with the faith that all students can achieve, led her to originate new solutions to old problems, resulting in expanded academic opportunities for minority and underprivileged students. Thirty years ago, Dr. Lieberman designed the first public high school college collaborative model to help underserved students graduate from high school and go to college. Her vision of placing a high school on a college campus with smaller classes, committed teachers, intensive counseling and high expectations would keep students in school and encourage them to go on to college. Dr. Lieberman has proved that students who are placed in a college environment can achieve academically.

I salute Drs. Cunningham and Lieberman and the other honorees for their remarkable and untiring contributions to education. America's youth will reap the rewards of their selfless dedication. They are truly gifted educators who have made a tremendous difference in the lives of so many.

JIM WHAM'S 9TH ANNUAL MEMORIAL DAY SERVICE ADDRESS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to submit the 9th Annual Memorial Day Service Address by Jim Wham of Centralia, IL. The address was given by Mr. Wham on May 31, 2004 at 10 a.m.

As usual, readers will find an address filled with the hopes and challenges of our Nation's veterans. Jim Wham's love of his country is clear on each page and in each line of his address.

We are grateful to him for his continued service to his country and for the inspiration he provides in reminding us that freedom is never free.

NINTH ANNUAL MEMORIAL DAY SERVICE, BROWNSTOWN VFW POST 9770, BROWNSTOWN CENTRAL PARK

The greatest crusade for freedom against tyranny in the history of the World was commemorated last Saturday at the dedication of the National World War II Memorial. It will stand forever between the Washington and Lincoln monuments. The costs of that crusade was monumental—400,000 Americans were killed.

Six days from now the 60th anniversary of the Normandy Invasion will command worldwide attention—the greatest invasion of all time had to be made and succeed if the free world was to win the war.

Today in Brownstown and in thousands of towns across the country each Memorial Day is a day of memories. Each Memorial Day is to honor and pay tribute to all Americans who fought and died for their country in the cause of peace and freedom in every war from the Revolution to the present day. Every one of their deaths are special beyond compare.

As Lincoln said at Gettysburg, it is for us, the living ''to highly resolve that these dead shall not have died in vain.''

Each Memorial Day is also a day to look to the lessons of the past to meet the dangers of the future. During my lifetime, the Armed Forces of the United States have been engaged throughout the world in eight wars: World War I, World War II, Korea, Vietnam, Desert Storm, the Balkans, Afghanistan and now Iraq.

In all of these wars Americans fought against the forces of tyranny and now against the new and vicious barbarians who cut off the heads of living men and crash planes full of innocent people into buildings full of innocent people.

The fanatical terrorists, suicide bombers, and their manipulators who are fueled by a hatred for every American. Fanatical kamikazes with no concern for the miracle of life—even their own. Full of diabolical cunning—cut from the same cloth as those monsters of history—spawned by the likes of Hitler and his gang of criminal degenerates.

Nine-eleven was just the beginning. Today we confront that same brand of terrorist in Iraq. And the terrorists we destroy in Iraq will never assault innocent people. A terrorist killed in Iraq will kill no one over here or anywhere else. But yet, we still hear those ominous words of Plato: ''That only the dead have seen the end of war.''

Is the human race to be forever victimized and dominated by demented and depraved tyrants and terrorists? Is there no end in sight? The forces of evil won't go away. They never have and they never will. So, what are the forces of good to do about it? Plenty—yet, many self-proclaimed good ones never have learned that you cannot negotiate with mad dogs, terrorists, or tyrants of any stripe. Never have they learned that the good cannot wait for the bad to quit being bad. And quitting the fight in mid-stream is the road to disaster. We cannot quit—even if we wanted to.

The United Nations never learned the lesson from the League of Nations which sat idly by while Hitler overran Europe and for 4 long years the whole world was engulfed in devastation and bloodshed to a depth never before seen in the history of the world.

And now, 60 years later, a new cult of second-guessers of our national fight against tyranny and terrorism has arisen—there are those who seek to sow doubt and discord among Americans, and there are those who have never learned the lesson that they do not really support the troops while publicly condemning and disparaging their Commander. Such only gives encouragement to the enemy. What happened to the doctrine of World War II that politics stops at the water's edge? The talkers and the shouters on national television have ignored that vital doctrine. Every day they criticize every decision of those who are trying their best to lead and protect the Nation in an all-out war against tyrants and terrorists that would destroy the American spirit, as well as lives.

If the Commander in Chief moves forward, the second-guessers say he should have stopped. If the Commander in Chief stops, they say he should have moved forward—or maybe even backward. What would these talkers do if the responsibility to act was theirs? They speak from the sanctuary of nonresponsibility.

Legitimate differences by knowledgeable persons are to be brought to the Commander in person and not by carping critics who sit on the sidelines and jeer. Sometimes I wonder whose side they are on.

There was the same brand of criticism leveled at Abraham Lincoln, the Commander in Chief in that war that preserved the Nation and destroyed the malignancy of slavery. But Lincoln, unshaken in the midst of that war, at Gettysburg summed up the duty of Americans through all ages: ''. . . it is for us the living . . . to be . . . dedicated to the great task remaining before us . . .''

The power of Lincoln is felt on every Memorial Day. And he left us this as he concluded his second inaugural address to the Nation at war a month before he was shot from behind by a terrorist named Booth. And these few simple words are vital to all Americans today: ''. . . let us strive on to finish the work we've begun.''

And that work is always at hand. Each generation must fulfill the destiny of this land of liberty which is all wound up in the cause of peace and freedom. Never can there be peace and freedom without conquering the barbarians of the world—the enemies of peace and freedom.

I have with me today a highly significant painting and I want to give it to the Veterans of Foreign Wars Post 9770 of Brownstown. I have done the same at other veteran organization ceremonies. I do this because of the message it conveys.

It is a picture of a wall, as you can see. It is entitled ''reflections'' and the reflections are of combat soldiers from a wall of names—the names of all Vietnam veterans who fell in battle. But, that picture tells the story of all American veterans—not just the Vietnam veterans—it tells the story of all American veterans who have made the supreme sacrifice for their country.

Soldiers who did all they could and now pass on to us the unfinished work—the continuing responsibility to preserve this country and its meaning to the world.

Those soldiers of Vietnam in that picture symbolize the passing of the torch—the torch of duty, honor, country—to the living from the dead of every war.

I hope you will hang this picture on the wall of the post because it tells the story of the American veteran of all the wars—veterans who never returned—veterans who pass the torch to those of us who did return—the torch to carry on the fight of good against evil—the fight for peace and freedom against tyranny and terror. The torch that must be kept lit and carried forward by every generation for as long as the star-spangled banner shall wave.

What a shameful epitaph any generation of Americans would write about themselves if they let down these heroes who died to preserve this land and its destiny.

Nations have come and gone. Great empires and nations have eventually ended up on the ash heap of history. They had their day in the sun, and then almost imperceptibly, the twilight creeps in, and before the generations realize it, the sun is gone and that empire and nation has receded back into the darkness of oblivion. This must never happen to the United States of America.

It would be a monumental tragedy for us in the grip of multiple frustrations of today's world to tolerate for an instant a retreat back from the confrontation by free men against terror and tyranny. Such a lack of national resolve would be the rankest of insults to every man who gave his life so that the Nation might live in honor and achieve its destiny of leading the world to freedom.

Television land is saturated with apologizers and cynics. But thank God for the inspired writers of the past and their words of inspiration and appreciation for their native land and the heroes we honor today.

Here is a composite of their great words. We have heard them before, but it is always good to hear them again:

''We sit here in this promised land, but t'was they that won it sword in hand''

''By the rude bridge which arched the flood . . . they fired the shot heard 'round the world . . .''

''They had a rendezvous with death at some disputed barricade on some scarred slope of a battered hill at midnight in some flaming town . . .''

And now: ''On fame's eternal camping ground their silent tents are spread and glory guards with silent round the bivouac of the dead . . .''

''Oh wave, banner, wave above each hero's grave . . .''

''In Flanders Field where poppies grow . . .''

And: ''From these honored dead we take increased devotion to that cause for which they gave their last full measure of devotion . . .''

''There's a graveyard near the White House where the Unknown Soldier lies''

And then it concludes with this famous line:

''I am the unknown soldier and maybe I died in vain, but if I were alive and my country called, I'd do it all again.''—for my country

''My country 'tis of thee, sweet land of liberty . . . long may our land be bright with freedom's holy light. Protect us by Thy might, great God, our King.''

My friends, since I came home from World War II I have spoken at many Memorial Day services like this one. And always echoing from the sounding of taps among the crosses of this Nation's heroes is the hope that when this Nation has lived 1,000 years, it can be

said of each generation that the Stars and Stripes went forward forever and no discordant bugle ever dared to sound retreat.

Jim Wham is Senior Partner of the law firm of Wham & Wham Lawyers, Centralia, Illinois, which firm has been in existence 115 years and Jim Wham is in his 56th year of active law practice in the Courts of Southern Illinois.

Born in Centralia October 10, 1918, Veteran of World War II, Major in Army Air Corps, served in England, Algeria, Tunisia, Sicily and Italy. Lifetime member of the American Legion. Member of the Veterans of Foreign Wars, Amvets and the Forty and Eight.

Member of the American College of Trial Lawyers. Served as Judge of the Illinois Court of Claims and as Assistant Attorney General, State of Illinois. Received the 1998 Tradition of Excellence Award from the Illinois State Bar Association.

Elected to the 2004 Class of Laureates, Academy of Illinois Lawyers. The Academy was founded in 1999 to recognize Illinois lawyers who personify the greatness of the legal profession.

Adult Sunday school teacher for 45 years, United Methodist Church, Centralia.

Married to Phyllis Wham 61 years. Two daughters, seven grandchildren and two great-grandchildren.

[From the ISBA Bar News and Illinois Courts Bulletin, Feb. 2004]

JAMES WHAM WAS INSPIRATION FOR BIRTH OF LAUREATE IDEA

(By Stephen Anderson)

''This honor you have given me today means more to me than any I have ever received, because it comes from lawyers and judges—and I never met one I didn't like!''

Those words still ring in the ears of many ISBA members who attended the Annual Meeting in St. Louis in 1998. They were in the response of James B. Wham of Centralia as recipient of the General Practice Section Tradition of Excellence Award.

''This is still the greatest profession of them all, because it always deals with rights and duties of man,'' he continued. That became the spark that kindled formation of an Academy of Illinois Lawyers to recognize our state's icons of lawyering.

A member of the Academy's 2004 class of Laureates, Wham is a partner in Wham & Wham. He graduated in 1946 from the University of Illinois College of Law after service as an Army Air Corps major in Europe and Africa during World War II.

His 58-year legal career includes having been a judge of the Court of Claims for eight years, an assistant attorney general for eight years, and a member of the Supreme Court Committee on Jury Instructions.

A lifelong Republican and frequent speaker at civic and patriotic events, he ran for election in 1990 as the Jim Wham Party for Congress and the Flag. He ran in the first Appellate Court election after judicial reform in 1964 but lost in the Lyndon Johnson landslide.

Wham is a Fellow of the American College of Trial Lawyers and the American Bar Foundation, and a member of the International Society of Barristers.

In his Laureate nomination letter, 4th Circuit Judge Patrick J. Hitpas said that ''Jim Wham enjoys being a lawyer more than anybody I know. He exemplifies everything good about lawyers and the legal profession.''

Wham's 1998 speech to the ISBA in St. Louis concluded, ''The greatest epitaph of a lawyer is this: He never quit; he just wore out and died, doing something for somebody else.'' An active trial lawyer at age 85, he shows no signs of wearing out.

IN HONOR OF HENRY MELLO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. FARR. Mr. Speaker, my colleagues and I rise today in honor of a good friend and outstanding public servant, former California State Senator Henry Mello. Henry passed away on September 4, 2004, but will always be remembered for his dedication to the communities of the Central Coast. He will be greatly missed by his family and friends, but his legacy will live on in many ways.

The son of Portuguese immigrants, Henry was born in 1924 in the rural community of Watsonville, where his mother's family had been farming apples since 1874. He had an eye for business and left Hartnell College after one year to work with his family on the apple farms. At the age of 29 Henry founded John C. Mello and Sons Cold Storage and ran it for twenty years before selling it to Del Mar Food Products in 1973. By this time Henry had found his true calling: public service.

In 1966 Henry officially began his political career with his election to the Santa Cruz County Board of Supervisors. He was not afraid of politically charged issues, and in 1972 composed a motion disapproving the United States' involvement in the Vietnam War. Because of his dedication to his constituents and his commitment to the Monterey Bay area, he was elected to the California State Assembly, serving from 1976 to 1980. Henry was then elected to the State Senate, rising quickly to prominent positions, including the majority whip from 1981 to 1992 and the majority leader from 1992 until he left the legislature in 1996.

While in the legislature, Senator Mello was an ardent supporter of many vital segments of our population, especially senior citizens. Senator Mello authored legislation to enact the first programs focusing on Alzheimer's-Respite Care, Adult Day Health Care and the Multipurpose Senior Services Programs. He founded the Senior Legislature and passed legislation to combat elder abuse. In the twenty years that Senator Mello served in the legislature, he authored more than 120 bills on aging and long-term care that have become the law of the land in California.

However, Henry's service and advocacy extended far beyond just one subject. He was also a strong supporter of our ocean's health, authoring legislation to protect fisheries, working to keep off-shore oil away from California's coastline, and petitioning for the Monterey Bay National Marine Sanctuary. He has created many lasting legacies on the Central Coast, including Wilder Ranch and Grey Whale State Parks, which are enjoyed by thousands of people each year. He also supported the creation of the Center for Agroecology and Sustainable Food Systems at the University of California, Santa Cruz, which has made tremendous strides in organic and sustainable farming practices worldwide.

When Fort Ord was slated to be closed by the U.S. Army, Senator Mello introduced legislation to create the Fort Ord Reuse Authority to help the state and the region handle the largest base closure in U.S. history. He was also proactive in transferring this area into civilian use, and helped create the California State University, Monterey Bay on the former base. He was a co-author of the Mello-Roos Act of 1982, which provided funding for education and other public projects through tax-exempt bonds. Following the Loma Prieta earthquake, Henry secured a temporary sales tax increase to help the devastated communities of the Central Coast, a measure which proved to be invaluable to the local governments in their efforts to rebuild. In his hometown, he is perhaps best known to the general public for helping to raise funds to rebuild the performing arts center in Watsonville after it was destroyed in the earthquake. It was opened in 1994 as the Henry J. Mello Center for the Performing Arts, which was particularly fitting because Senator Mello was known for contributing his musical talents on the piano for many state and local functions.

Mr. Speaker, Henry Mello was the consummate public servant and master of the art of compromise. His legacy to the State of California is felt through the landmark legislation that he passed as well as through those whose lives he touched personally. Many of us in the California Congressional Delegation worked closely with Henry throughout our public service careers, and we all wish to extend our deepest sympathies to his wife, Helen, and his sons Stephen, John, Michael and Timothy.

IN MEMORY OF W. HARRINGTON SMITH, JR.

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. WOLF. Mr. Speaker, I would like to call to the attention of the House the passing of W. Harrington Smith, Jr. A longtime public servant, Mr. Smith spent 18 years on the Frederick County Board of Supervisors. I had the pleasure of working with Mr. Smith during this time as he represented the Shawnee district.

It was an honor to have known Harrington Smith, who worked hard and impacted many lives during his service in Frederick County, Virginia. My condolences go out to his family, friends, and colleagues as they mourn the loss of this great man. I would also like to share a recent article from The Winchester Star which commemorates his life and work.

[From The Winchester Star, Aug. 10, 2004]

FREDERICK COUNTY SUPERVISOR HARRINGTON SMITH DIES

(By Laura Arenschield)

One of Frederick County's ''old buddies'' died on Monday afternoon, leaving a trail of jokes, doting friends, and ''Bone-a-lopes'' behind him.

W. Harrington Smith Jr.. 78, who spent 18 years on the Frederick County Board of Supervisors, died in Winchester Medical Center two weeks after undergoing surgery for a stomach aneurysm.

Smith served on the board from 1988 until his death, representing the Shawnee District. He was known for his ''Bone-a-lopes''—trips around the area to talk with the people he represented.

He went to find their problems, and to fix them, and to make people feel comfortable with a grin, a pat on the back, and a ''hey, old buddy, hey old friend'' for a greeting,

To hear his friends and family tell it, Smith was a friendly, outgoing man who never ran out of time for the people who voted him into office.

''If somebody needed help with a traffic light or a pothole or barking dogs, he would go out and visit them,'' his son, Harry Smith, said on Monday afternoon. ''He would be able to get things done for people.''

Harry said his father died ''just peacefully, and calmly, and in his own way.''

With a nostalgic laugh, he told of his father's intricate jokes:

''They are so long and complex that I—unfortunately, one of the things I had intended to do and never was able to do was to memorize those jokes. And I wish that I had.''

In addition to a list of complex jokes only Harrington could remember, the veteran supervisor left a family that included his wife, Barbara Armistead Smith; sons Harry and Michael Smith and Drury Armistead; daughter Beth; and nine grandchildren ranging in age from 5 to 23.

''He had a phenomenal memory for jokes,'' Dick Kern, an old friend and Harrington's former employer, said on Monday. ''His favorite saying was 'God love you.' And he said that all the time.''

Kern stifled a chuckle before describing a man fond of parties and a good time.

''He loved a good rum drink,'' Kern said. ''He enjoyed drinking and relaxing and I did, too. So we were great partners.''

Party animal or not, Harrington ''Smitty'' Smith took care of his constituents, Kern said.

''If anybody called him on a road or a fence or any kind of problem, he made it a point to go out and check it himself and take care of the problem,'' said Kern, a former Winchester City Council member. ''And I guess that was another thing I liked about him . . . he was honest and you could rely on him, and you knew he would be there.

''He was a heck of a guy.''

Harrington's wife, Barbara, said her husband would do just about anything for just about anybody.

In fact, that's how they met.

''Harrington was part of a local rescue squad bringing a psychiatric patient to the old Cork Street hospital emergency room,'' she said. ''And the patient jumped out the back towards these two women and Harrington tackled him, and the guy wound around and kicked him in the neck.''

Barbara had just come to the hospital as a physical therapist. Harrington became her patient.

''Yeah, I cured him, so he married me,'' she said with a laugh. ''At the time, he was just so outstandingly good-looking. And everybody liked him because he was such a good listener and he really, really, really loved people. He really did.''

Harry, who served on the Winchester City Council, said he always was amazed at how long his father stayed in public service.

''I wonder what impact he might have had if he had started in elected office, say in his 30s or 40s instead of his 60s,'' he said. ''I think it was always centered around and based around his love of this community.''

Harrington Smith the supervisor had a persona most people couldn't figure out.

During his time in office, he switched from Republican to Democrat before becoming an independent.

''I was always surprised by his votes,'' former Supervisor Sidney ''Sid'' Reyes said. ''I never knew which way he was going to come.''

''But he was a gentleman. The ultimate gentleman, I don't think Harrington Smith had an enemy or anyone who spoke ill of him.''

The man the public didn't get to see was a little less of an enigma, Harry said.

''If he wasn't out helping constituents, he was probably watching television, sitting on a couch, eating a grilled-cheese sandwich, with his feet propped up, his arm propped up on a pillow, and the cat in his lap,'' Harry said. ''He was a channel flicker. Anywhere from a sports to movies to the History Channel. And it had to be turned up very loud.''

Like the volume on him TV set, whenever Harrington had an idea, he put it out with force—especially when it came to state government controlling local decisions.

''You could always count on Harrington with a speech any time the subject came up,'' Board of Supervisors Chairman Richard C. Shickle said. ''He just stated his opinion and didn't pull any punches. . . . You didn't have any trouble understanding Harrington or his positions. He was just blunt.''

Frederick County Commonwealth's Attorney Lawrence R. Ambrogi called Harrington Smith ''outgoing,'' ''personable,'' and ''unique.''

''He was one-of-a-kind, Ambrogi said. ''He was 78, he probably put in 200 years of life in that time.''

''He sang the national anthem at different political functions, he was an announcer at the (stock car) racetrack.

''It's just sad because he'll never be replaced.''

Still, Shawnee residents can't go without representation on the Board of Supervisors.

Ambrogi said the board has 45 days to appoint Harrington's replacement because the next election is less than 120 days away.

Shickle and Ambrogi said the county needs time to grieve before worrying about that, though.

''I lost a friend,'' Shickle said. ''And I think we'll mourn first.''

15TH ANNIVERSARY OF RAPIDES HABITAT FOR HUMANITY

HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. VITTER. Mr. Speaker, I congratulate Rapides Habitat for Humanity on fifteen years of successful service in Rapides Parish, Louisiana.

I rise today to recognize Rapides Parish Habitat for Humanity on its fifteenth anniversary. Rapides Parish is blessed to have such a successful organization with so many dedicated workers and volunteers building a better future. I am proud to report that with the help of over 1,000 volunteers, sixty-seven houses have been built in the surrounding area with two under construction. Now, because of the work of these driven people, over 250 people have sturdy roofs over their heads.

The work of these volunteers led a little girl to exclaim with delight, "Now I can have a slumber party!" Families can now gather around a dining room table to celebrate the holidays, and children can sleep in warm beds rather than on the floor.

I come to the floor of the House of Representatives today to personally commend, honor and thank Rapides Parish Habitat for Humanity. I look forward to the continuous progress that will be made by these hard-working and passionate volunteers.

THANKING MICHAELS OF OREGON

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. OTTER. Mr. Speaker, I rise today to relate an inspiring story of support from the people of Idaho, from a community in my district, for our brave troops being deployed to Iraq.

On August 17, I had the opportunity to visit with some of my constituents at a business in the community of Meridian. The Michaels of Oregon plant in Meridian is a quality manufacturer of gun cleaners, holsters and related equipment for law enforcement personnel and other first responders.

During my tour, General Manufacturing Manager Brian Schroeder handed me a manila envelope. It turns out the employees knew I would be coming out to the plant, so they took up a collection and asked that I get the money in that envelope to the USO to help our troops in the Idaho National Guard's 116th Cavalry Brigade.

As I walked through the plant, I also met Michaels employee Sandra Zimmer, whose son had just returned from Kuwait, and Michelle Carskaddon, whose father was in Iraq. Everyone I met wanted me to pass on to our men and women in uniform just how proud they are of our troops and how proud they are to be Americans.

Let me tell you, I never had a more meaningful visit, and I was never prouder to be an Idahoan. But the thing is, the folks at Michaels are not unique. Meridian, Idaho—like communities all across America—is filled with individuals who care about each other, care about those who serve in our Armed Forces, and care about our country.

Mr. Speaker, it is my great honor and privilege to represent people like that here in the United States House of Representatives. Please join me in thanking the good people at Michaels of Oregon. They are to be commended for their citizenship, patriotism and generosity.

HONORING MRS. PEGI MILLER, LEGISLATIVE LIAISON REPRESENTATIVE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mrs. Pegi Miller, who will retire on October 1, 2004, after completing 20 years of Federal Service.

Mrs. Miller began her career in 1976 as a non-appropriated fund employee at the Bolling AFB Child Care Center, where she served as a Clerk/Receptionist until October 1984. She then moved to the Pentagon to work for the Secretary of the Air Force, Office of the General Counsel, for a short time. Mrs. Miller served next in the Office of the Air Force Civil Engineer until 1987, when she assumed her current duties as a Legislative Assistant in the Congressional Inquiries Division, Office of the Secretary of the Air Force, Legislative Liaison Directorate. In this capacity, Mrs. Miller performed superbly across a broad spectrum of

Congressional issues, brilliantly and expertly assisting the Directorate in providing timely responses to tens of thousands of inquiries from Congress.

During her 17 years of work in the Office of Legislative Liaison, Mrs. Miller has provided dedicated and professional service to both the United States Senate and the House of Representatives. She has developed close working relationships with many Congressional offices, and her efforts have greatly enhanced Congressional understanding of Air Force issues. The distinctive accomplishments of Mrs. Pegi Miller culminate a distinguished career in the service of the Federal Government, and reflect great credit upon herself and the Department of the Air Force.

CONGRATULATING THE BLOOMSBURG FAIR ON ITS 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KANJORKSKI. Mr. Speaker, for one week each year, the town of Bloomsburg in my district in Pennsylvania welcomes nearly 500,000 visitors to its annual fair. This year, the famous Bloomsburg Fair celebrates its 150th anniversary.

Originally envisioned as an agricultural fair, founder Dr. John Taggert convinced a few of his neighbors to join him in finding exhibitors of fruits, vegetables, and other farm products. Dr. John Ramsey, B.F. Hartman, Caleb Barton, William Neal, and I.W. Hartman joined Dr. Taggert in establishing the fair, for which they charged a ten cent admission fee, most of which was used to pay for police service.

Now expanded to an eight-day event spread out over more than 275 acres, the Bloomsburg Fair still retains much of its original agricultural atmosphere. It now features livestock shows, horse racing, arts and crafts, countless varieties of food, carnival rides, antique shows and an array of other attractions for adults and children alike.

Several years ago, I submitted the Bloomsburg Fair as an excellent example of America's rich cultural diversity for the Library of Congress's Local Legacies program. The Bloomsburg Fair is now permanently memorialized in the collection of the American Folklife Center.

Under the leadership of President Fred Trump, the Bloomsburg Fair Committee works year-round to ensure a successful annual fair. This year was especially challenging in light of the flooding caused by the remnants of Tropical Storm Ivan, which left several feet of water on the fairgrounds just days before its opening. Through the hard work of the Committee and volunteers, the Fair opened as scheduled this past Saturday.

Mr. Speaker, the Bloomsburg Fair represents the best of the American tradition of bringing people together to celebrate the gifts this Nation provides to all of us. I am proud to represent the town of Bloomsburg and the people who make the Bloomsburg Fair an annual tradition for families throughout the region.

PERSONAL EXPLANATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KLECZKA. Mr. Speaker, on Thursday, September 23, I was not present for business on the floor of the House due to personal business and was thereby absent for votes on rollcall Nos. 466 through 472. Had I been present, I would have voted "yea" on rollcall No. 466, "no" on rollcall No. 467, "yea" on rollcall No. 468, "no" on rollcall No. 469, "no" on rollcall No. 470, "no" on rollcall No. 471, and "no" on rollcall No. 472.

RECOGNITION OF COLONEL PERRY L. BRIDGES, IN HONOR OF HIS RETIREMENT AND HIS INVALUABLE SERVICE TO OUR COUNTRY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. PALLONE. Mr. Speaker, I rise today to honor the career and achievements of an exemplary individual, Colonel Perry (Buddy) L. Bridges. Upon his retirement as the Chief of Staff for the U.S. Army Communications-Electronics Command (CECOM) and Fort Monmouth, he left behind a distinguished career, one through which he provided an invaluable service to his country.

Perry L. Bridges first entered the military in May of 1977, and throughout his 27 years of service, he held critical responsibilities through his work with the Army, Department of Defense, international organizations and foreign governments. His commitment to his work earned him the respect of all his colleagues and anyone who was fortunate enough to know him. Today, I would like to take a moment to look back and pay homage to a decorated career.

Colonel Bridges' outstanding career has included several high-ranking and significant command assignments. He served as Brigade Commander of the 1st Signal Brigade and he also served exceptionally as Battalion Commander of HHD, 56th Signal Battalion, 106th Signal Brigade.

From June 1999 to May of 2000, Colonel Bridges performed magnificently as the Commander of the Signal Regiment's Academy and Director of the Signal Regiment's School of Leadership and Professional Development; leading an academy of over 1000 students, instructors, and staff personnel who were responsible for 17 leader and professional development courses.

Through his tenure as Chief of Staff at the Communications-Electronics Command and Fort Monmouth, Colonel Bridges directed and coordinated a functional staff of 600 personnel and the resources of CECOM consisting of 10,000 military and civilian employees and an annual budget of approximately $2.2 billion. Colonel Bridges developed and implemented changes in training and organization that dramatically enhanced and strengthened Fort Monmouth's force protection system so that our enemies will find it more difficult and more costly to interfere with Fort Monmouth's efforts to maintain peace and stability.

As Chief of Staff at the Communications-Electronics Command, Colonel Bridges brought with him a stellar history of service and remarkable leadership ability, integrity and unsurpassed dedication to soldiers, civil servants, the Army and his country. His distinguished military career truly reflects great credit upon himself, the United States Army Material Command, the United States Army and our entire Nation.

A career as notable as this, should not go unrecognized. Colonel Bridges has received numerous awards of recognition throughout his career, which include a Legion of Merit, the Defense Meritorious Service Medal, the Meritorious Service Medal with 4 Oak Leaf Clusters, the Army Commendation Medal with 1 Oak Leaf Cluster, and the Army Achievement Medal, just to name a few.

Once again, Mr. Speaker, I would like to congratulate Colonel Bridges on a storied career and thank him for his vital service to this country. I wish him the best of luck in all his future endeavors.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Thursday, September 23, 2004, the House had a vote on H.R. 1057. On House rollcall vote No. 468, I was unavoidably detained. Had I been present, I would have voted "yea."

CONGRESSIONAL CONFERENCE ON CIVIL EDUCATION

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. WU. Mr. Speaker, the Founders of this Nation understood that a free society must rely on the knowledge, skills, and virtue of its citizens and those serving in public office on their behalf. To enable our young people to be effective and responsible citizens we must do everything possible to ensure they receive an adequate civic education.

On September 20–22 of last year, the first annual Congressional Conference on Civic Education was launched. The conference was sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

One of the very important outcomes of the congressional conference was the establishment of state delegations that would return to the state to enact specific policies designed to restore the civic mission of our schools.

I would like to recognize, Marilyn Cover, Executive Director of Classroom Law Project, and Barbara Rost, Program Director, the facilitators of the Oregon delegation for their leadership in working to design an action plan to improve civic education in our state. These state action team activities include implementing Oregon's already strong and comprehensive State civic standards. Leaders from the Governor's office, State House and

Senate, Department of Education, school districts, and local communities will plan for re-invigorating civic learning in Oregon.

Mr. Speaker, I look forward to the success of the Oregon civic education delegation and their participation this year at the second annual Congressional Conference on Civic Education on December 4–6 of this year.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S9761–S9866

Measures Introduced: Six bills and five resolutions were introduced, as follows: S. 2851–2856, and S. Res. 436–440. **Pages S9812–13**

Measures Reported:

S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, with an amendment in the nature of a substitute. (S. Rept. No. 108–360)

S. 511, to provide permanent funding for the Payment In Lieu of Taxes program, with an amendment in the nature of a substitute. (S. Rept. No. 108–361)

S. 1614, to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System, with an amendment in the nature of a substitute. (S. Rept. No. 108–362)

S. 1678, to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, with an amendment in the nature of a substitute. (S. Rept. No. 108–363)

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, with an amendment in the nature of a substitute. (S. Rept. No. 108–364)

S. 1876, to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project, with an amendment in the nature of a substitute. (S. Rept. No. 108–365)

S. 2142, to authorize appropriations for the New Jersey Coastal Heritage Trail Route. (S. Rept. No. 108–366)

S. 2181, to adjust the boundary of Rocky Mountain National Park in the State of Colorado, with an amendment. (S. Rept. No. 108–367)

S. 2334, to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System. (S. Rept. No. 108–368)

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, with an amendment in the nature of a substitute. (S. Rept. No. 108–369)

S. 2408, to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana, with an amendment in the nature of a substitute. (S. Rept. No. 108–370)

S. 2432, to expand the boundaries of Wilson's Creek Battlefield National Park. (S. Rept. No. 108–371)

S. 2567, to adjust the boundary of Redwood National Park in the State of California. (S. Rept. No. 108–372)

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, with an amendment in the nature of a substitute. (S. Rept. No. 108–373)

H.R. 1113, to authorize an exchange of land at Fort Frederica National Monument. (S. Rept. No. 108–374)

H.R. 1446, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, with an amendment in the nature of a substitute. (S. Rept. No. 108–375)

H.R. 1964, to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, with an amendment in the nature of a substitute. (S. Rept. No. 108–376)

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. (S. Rept. No. 108–377)

H.R. 3706, to adjust the boundary of the John Muir National Historic Site. (S. Rept. No. 108–378)

H.R. 4516, to require the Secretary of Energy to carry out a program of research and development to

advance high-end computing, with an amendment in the nature of a substitute. (S. Rept. No. 108–379)

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. Rept. No. 108–380)

S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions. (S. Rept. No. 108–381)

S. 333, to promote elder justice, with an amendment in the nature of a substitute. **Page S9812**

Measures Passed:

North Korean Human Rights Act: Committee on Foreign Relations was discharged from further consideration of H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Pages S9805–06**

Brownback/Bayh Amendment No. 3728, in the nature of a substitute. **Pages S9805–06**

Feed America Thursday: Senate agreed to S. Res. 440, designating Thursday, November 18, 2004, as "Feed America Thursday". **Page S9863**

Recognizing Wisconsin Native Americans: Senate agreed to S. Res. 439, recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian. **Pages S9863**

National Domestic Violence Awareness Month: Senate agreed to S. Res. 438, supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families. **Pages S9863–64**

Olympic Games Site: Senate agreed to H. Con. Res. 475, encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games. **Page S9864**

Tropical Forest Conservation Act Reauthorization: Committee on Foreign Relations was discharged from further consideration of H.R. 4654, to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and the bill was then passed, clearing the measure for the President. **Page S9864**

Supreme Court Authority Extension: Senate passed S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court, after agreeing to the following amendment proposed thereto: **Page S9865**

Frist (for Hatch/Leahy) Amendment No. 3729, to provide for authority to accept gifts pertaining to the history of the Supreme Court. **Page S9865**

National Intelligence Reform Act: Senate continued consideration of S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, taking action on the following amendments proposed thereto: **Pages S9778–S9805**

Adopted:

By a unanimous vote of 97 yeas (Vote No. 189), McCain Amendment No. 3702, to add title VII of S. 2774, 9/11 Commission Report Implementation Act, related to transportation security. **Pages S9778, S9784**

By a unanimous vote of 96 yeas (Vote No. 190), Hutchison Amendment No. 3711, to provide for air cargo safety. **Pages S9784–89, S9795**

Collins (for Inhofe/Jeffords) Amendment No. 3731 (to Amendment No. 3705), to ensure the participation of the Under Secretary for Emergency Preparedness and Response in the Threat-Based Homeland Security Grant Program grant-making process for nonlaw enforcement related grants. **Pages S9804–05**

Collins (for Levin) Amendment No. 3732 (to Amendment No. 3705), to give the Secretary of Homeland Security greater flexibility in allocating funds for discretionary grants to local governments. **Pages S9804–05**

Pending:

Wyden Amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch. **Page S9778**

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification. **Pages S9778–84**

Specter Amendment No. 3706, to provide the National Intelligence Director with the authority to supervise, direct, and control all elements of the intelligence community performing national intelligence missions. **Pages S9789–S9804**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Wednesday, September 29, 2004. **Page S9865**

Coastal Barrier Resources System: Senate concurred in the amendment of the House to S. 1663, to replace certain Coastal Barrier Resources System maps, clearing the measure for the President. **Page S9864**

Bill Referral: A unanimous-consent agreement was reached providing that the bill H.R. 3428, to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building", which is on the calendar, be referred to the Committee on Environment and Public Works. **Page S9865**

Nominations Confirmed: Senate confirmed the following nominations:

Dionel M. Aviles, of Maryland, to be Under Secretary of the Navy.

Routine lists in the National Oceanic and Atmospheric Administration, Public Health Service. **Page S9865**

Measures Referred: **Page S9810**

Measures Read First Time: **Page S9810**

Executive Communications: **PageS S9810–12**

Additional Cosponsors: **Page S9813**

Statements on Introduced Bills/Resolutions: **Pages S9813–18**

Additional Statements: **Pages S9808–10**

Amendments Submitted: **Pages S9818–63**

Authority for Committees to Meet: **Page S9863**

Record Votes: Two record votes were taken today. (Total—190) **Pages S9784, S9795**

Adjournment: Senate convened at 9:45 a.m., and adjourned at 7:22 p.m., until 9:30 a.m., on Wednesday, September 29, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S9866.)

Committee Meetings

(Committees not listed did not meet)

BANK SECRECY ACT

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the effectiveness of U.S. policies to enforce the Bank Secrecy Act and to prevent money laundering in money services businesses and the gaming industry, after receiving testimony from William J. Fox, Director, Financial Crimes Enforcement Network, and Kevin M. Brown, Commissioner, Small Business/Self-Employed Division, Internal Revenue Service, both of the Department of the Treasury; Diana L. Taylor, New York State Banking Department, New York; Joseph Cachey III, Western Union Financial Services, Inc., Greenwood Village, Colorado; and Frank J. Fahrenkopf, Jr., American Gaming Association, and Ezra C. Levine, Howrey, Simon, Arnold, and White, LLP, on behalf of the Non-Bank Funds Transmitters Group, both of Washington, D.C.

MEDIA OWNERSHIP

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine media ownership issues, including the importance of diversity of ownership, regulation of ownership, and tracking media ownership trends, after receiving testimony from C. Edwin Baker, University of Pennsylvania Law School, Philadelphia; Geneva Oversholser, Missouri School of Journalism, and Adam D. Thierer, Cato Institute, both of Washington, D.C.; and Ben Compaine, Cambridge, Massachusetts.

MEDIA RATINGS

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology and Space concluded a hearing to examine the effectiveness of media ratings systems, focusing on rating systems and guidelines for children, after receiving testimony from Dan Glickman and Jack Valenti, both of the Motion Picture Association of America, and Anthony T. Podesta, Podesta Mattoon, on behalf of the TV Parental Guidelines Monitoring Board, all of Washington, D.C.; Patricia E. Vance, Entertainment Software Rating Board, New York, New York; Kimberly M. Thompson, Harvard School of Public Health, Boston, Massachusetts; Patti Miller, Children Now, Oakland, California; and David G. Kinney, PSVratings, Inc., Los Angeles, California.

MULTILATERAL DEVELOPMENT BANKS

Committee on Foreign Relations: Committee concluded a hearing to examine how to combat corruption in the multilateral development banks, focusing on efforts to use anti-corruption and anti-fraud tools at the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development, and to alleviate poverty and promote progress around the world relative to the national security and humanitarian interests of the United States, after receiving testimony from Bruce M. Rich, Environmental Defense, and George B.N. Ayittey, American University Department of Economics, both of Washington, D.C.

INFLUENZA VACCINE

Special Committee on Aging: Committee concluded a hearing to examine federal, state, and local efforts to combat influenza in order to keep senior citizens alive, focusing on influenza vaccine recommendations and improved vaccine coverage, and antiviral drugs, after receiving testimony from Stephen M. Ostroff, Deputy Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention, and Pamela M. McInnes, Deputy Director, Division

of Microbiology and Infectious Diseases, National Institute of Allergy and Infectious Diseases, both of the Department of Health and Human Services; Janet Heinrich, Director, Healthcare and Public Health Issues, Government Accountability Office; Carol M. Moehrle, North Central District Health Department, Lewiston, Idaho; and Howard Pien, Chiron Corporation, Emeryville, California.

House of Representatives

Chamber Action

Measures Introduced: 11 public bills, H.R. 5151–5161; and; 6 resolutions, H.J. Res. 107–108; H. Con. Res. 500–501, and H. Res. 804–805 were introduced. **Page H7734**

Additional Cosponsors: **Pages H7734–36**

Reports Filed: Reports were filed today as follows:

H.R. 2941, to correct the south boundary of the Colorado River Indian Reservation in Arizona, amended (H. Rept. 108–701);

H.R. 4066, to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, amended (H. Rept. 108–702);

H.R. 4579, to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri (H. Rept. 108–703);

H.R. 5009, to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana (H. Rept. 108–704);

H. Res. 801, providing for consideration of H.J. Res. 106, proposing an amendment to the Constitution of the United States relating to marriage (H. Rept. 108–705);

H. Res. 802, providing for consideration of H.J. Res. 107, making continuing appropriations for the fiscal year 2005 (H. Rept. 108–706); and

H. Res. 803, providing for consideration of H.R. 3193, to restore second amendment rights in the District of Columbia (H. Rept. 108–707). **Page H7734**

Speaker: Read a letter from the Speaker wherein he appointed Representative Biggert to act as Speaker Pro Tempore for today. **Page H7581**

Chaplain: The prayer was offered today by Rev. Thomas K. Spence, Jr., Retired Pastor, Presbyterian Church in Sanford, North Carolina. **Pages H7585–86**

Recess: The House recessed at 1:06 p.m. and reconvened at 2 p.m. **Page H7585**

Committee Appointment: The Chair announced the Speaker's appointment of Representative Thornberry to the Permanent Select Committee on Intelligence. **Page H7587**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Revising and extending the Boys and Girls Clubs of America: S. 2363, to revise and extend the Boys and Girls Clubs of America, by a 2/3 recorded vote of 374 ayes to 19 noes, Roll No. 475; **Pages H7588–90, H7700–01**

Title 46 Codification Act of 2004: H.R. 4319, amended, to complete the codification of title 46, United States Code, "Shipping", as positive law; **Pages H7590–H7654**

Piracy Deterrence and Education Act of 2004: H.R. 4077, amended, to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet; **Pages H7654–60**

Expressing continued support for the construction of the Victims of Communism Memorial: H. Res. 752, expressing continued support for the construction of the Victims of Communism Memorial; **Page H7660**

Rancho El Cajon Boundary Reconciliation Act: H.R. 3954, amended, to authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an erroneous survey conducted by a Government contractor in 1881 that resulted in overlapping boundaries for certain lands; **Page H7661**

Chickasaw National Recreation Area Land Exchange Act of 2004: H.R. 4066, amended, to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma; **Pages H7661–62**

Angel Island Immigration Station Restoration and Preservation Act: H.R. 4469, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; **Pages H7662–64**

Truman Farm Home Expansion Act: H.R. 4579, to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri; **Pages H7664–66**

Amending public law with regard to land conveyed to Eastern Washington University: H.R. 4596, amended, to amend PL 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009; **Page H7666**

Gullah/Geechee Cultural Heritage Act: H.R. 4683, amended, to enhance the preservation and interpretation of the Gullah/Geechee cultural heritage; **Pages H7666–69**

Providing for a land exchange involving land in the vicinity of Holloman Air Force Base, New Mexico: H.R. 4808, amended, to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base; **Pages H7669–70**

Hibben Center Act: S. 643, amended, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico; **Page H7670**

Manhattan Project National Historical Park Study Act of 2003: S. 1687, to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System—clearing the measure for the President; **Pages H7670–71**

El Camino Real de los Tejas National Historic Trail Act of 2004: S. 2052, to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail—clearing the measure for the President; **Pages H7671–72**

Trail Responsibility and Accountability for the Improvement of Lands (TRAIL) Act: H.R. 3247, amended, to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used; **Pages H7672–74**

Agreed to amend the title so as to read: to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies. **Page H7674**

Amending the Small Tracts Act: H.R. 4617, amended, to amend the Small Tracts Act to facilitate the exchange of small tracts of land; **Page H7674**

Agreed to amend the title so as to read: to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California. **Page H7674**

Renaming the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area: H.R. 4827, to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area; **Pages H7674–75**

Healthy Forests Youth Conservation Corps Act of 2004: H.R. 4838, amended, to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief; **Pages H7675–77**

Conveyance of land to the New Hope Cemetery Association in Arkansas: 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—clearing the measure for the President; **Page H7677**

Craig Recreation Land Purchase Act: S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska—clearing the measure for the President; **Pages H7677–78**

Arapaho and Roosevelt National Forests Land Exchange Act of 2004: S. 2180, to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado—clearing the measure for the President; **Pages H7678–79**

Little Butte/Bear Creek Subbasins Water Feasibility Act: H.R. 3210, amended, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Subbasins in Oregon; **Page H7679**

Authorizing a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California: 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; **Pages H7679–80**

Southern California Groundwater Remediation Act: H.R. 4606, amended, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California; **Pages H7680–81**

Montana Water Contracts Extension Act of 2004: H.R. 5009, to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana; **Page H7681**

Extending the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska: H.R. 5016, to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska; **Pages H7681–82**

Redesignating the Ridges Basin Reservoir, Colorado, as Lake Nighthorse: S. 2508, to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse—clearing the measure for the President; **Page H7682**

Recognizing the 60th anniversary of the Battle of Peleliu during WWII: H.J. Res. 102, recognizing the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II and urging the Secretary of the Interior to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark and to establish commemorative programs honoring the Americans who fought there; **Pages H7682–83**

Recognizing the 60th anniversary of the Liberation of Guam during WWII: H. Res. 737, recognizing the 60th anniversary of the Liberation of Guam during World War II; **Pages H7683–85**

Colorado River Indian Reservation Boundary Correction Act: H.R. 2941, amended, to correct the south boundary of the Colorado River Indian Reservation in Arizona; **Pages H7685–86**

Brown Tree Snake Control and Eradication Act of 2003: H.R. 3479, amended, to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States; **Pages H7686–89**

Commending the people of Florida and the individuals who have assisted with recovery efforts after Hurricanes Charley, Frances, and Ivan: H. Res. 784, amended, commending the resiliency of the people of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, and Ivan; **Pages H7702–05**

Agreed to amend the title so as to read: Commending the resiliency of the people of the State of Florida and the work of those individuals who have assisted with the recovery efforts after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne. **Page H7705**

District of Columbia Retirement Protection Improvement Act of 2004: H.R. 4657, amended, to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters; **Pages H7705–08**

Martha Pennino Post Office Building Designation Act: H.R. 5133, to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building"; **Pages H7708–09**

Specialist Eric Ramirez Post Office Designation Act: H.R. 5027, to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office"; **Pages H7709–10**

Supporting National Life Insurance Awareness Month: H. Con. Res. 461, expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month; **Pages H7711–12**

Sergeant Riayan A. Tejada Post Office Designation Act: H.R. 4046, amended, to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejada Post Office"; and **Pages H7712–13**

Agreed to amend the title so as to read: to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office". **Page H7713**

Evan Asa Ashcraft Post Office Building Designation Act: H.R. 5147, to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building". **Pages H7713–14**

National Defense Authorization Act for FY05—Motion to go to Conference: The House disagreed to the Senate amendment to H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and agreed to a conference. **Page H7689**

Agreed to the Pelosi motion to instruct conferees on the bill by a yea and nay vote of 213 yeas to 186 nays, Roll No. 473. **Pages H7689–98, H7699–H7700**

Agreed to close portions of the conference when classified national security material is being discussed by a yea and nay vote of 396 yeas with none voting "nay", Roll No. 474. **Page H7700**

Appointed as conferees: From the Committee on Armed Services, for consideration of the House bill and Senate amendment, and modifications committed to conference: Representatives Hunter, Weldon (PA), Hefley, Saxton, McHugh, Everett, Bartlett (MD), McKeon, Thornberry, Hostettler, Jones (NC), Ryun (KS), Gibbons, Hayes, Wilson (NM), Calvert, Simmons, Skelton, Spratt, Ortiz, Evans, Taylor (MS), Abercrombie, Meehan, Reyes, Snyder, Turner (TX), Smith (WA), Loretta Sanchez (CA), and Hill. **Page H7701**

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Representatives Hoekstra, LaHood, and Harman. **Page H7701**

From the Committee on Agriculture, for consideration of sec. 1076 for the Senate amendment, and modifications committed to conference: Representatives Goodlatte, Burns, and Stenholm. **Page H7701**

From the Committee on Education & the Workforce for consideration of secs. 590, 595, 596, 904, and 3135 of the House bill, and secs. 351, 352, 532, 533, 707, 868, 1079, 3143, 3151–3157 of the Senate amendment, and modifications committed to conference: Representatives Castle, Sam Johnson (TX), and Bishop (NY). **Page H7701**

From the Committee on Energy & Commerce, for consideration of secs. 596, 601, 3111, 3131, 3133, and 3201 of the House bill, and secs. 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference: Representatives Barton (TX), Upton, and Dingell. **Page H7701**

From the Committee on Government Reform, for consideration of secs. 801, 806, 807, 825, 1061, 1101–1104, 2833, 2842, and 2843 of the House bill, and secs. 801, 805, 832, 851, 852, 869, 870, 1034, 1059B, 1091, 1101, 1103–1107, 1110, 2823, 2824, 2833, and 3121 of the Senate amendment, and modifications committed to conference: Representatives Tom Davis (VA), Shays, and Waxman. **Page H7701**

From the Committee on House Administration, for consideration of secs. 572, and 1065 of the Senate amendment, and modifications committed to conference: Representatives Ney, Ehlers, and Larson (CT). **Page H7701**

From the Committee on International Relations, for consideration of secs. 811, 1013, 1031, 1212, 1215, Title XIII, secs. 1401–1405, 1411, 1412, 1421, and 1422 of the House bill, and secs. 1014, 1051–1053, 1058, 1059A, 1059B, 1070, Title XII, secs. 3131, and 3132 of the Senate amendment, and modifications committed to conference: Representatives Hyde, Leach, and Lantos. **Page H7701**

From the Committee on the Judiciary, for consideration of secs. 551, 573, 616, 652, 825, 1075, 1078, 1105, 2833, 2842, and 2843 of the House bill, and secs. 620, 842, 1063, 1068, 1074, 1080–1082, 1101, 1106, 1107, 2821, 2823, 2824, 3143, 3146, 3151–3157, 3401–3410 of the Senate amendment, and modifications committed to conference: Representatives Sensenbrenner, Smith (TX), and Conyers. **Page H7701**

From the Committee on Resources, for consideration of secs. 601 and 2834 of the House bill, and sec. 1076 of the Senate amendment, and modifications committed to conference: Representatives Pombo, Walden (OR), and Inslee. **Page H7701**

From the Committee on Science, for consideration of sec. 596 of the House bill and secs. 1034, 1092, and Title XXXV of the Senate amendment, and modifications committed to conference: Representatives Boehlert, Smith (MI), and Gordon. **Page H7702**

From the Committee on Small Business, for consideration of secs. 807, and 3601 of the House bill, and secs. 805, 822, 823, 912, and 1083 of the Senate amendment, and modifications committed to conference: Representatives Manzullo, Kelly, and Velazquez. **Page H7702**

From the Committee on Transportation & Infrastructure, for consideration of secs. 555, 558, 596, 601, 905, 1051, 1063, 1072, and 3502 of the House bill, and secs. 321, 323, 325, 717, 1066, 1076, 1091, 2828, 2833–2836, and title XXXV of the Senate amendment, and modifications committed to conference: Representatives Young (AL), Duncan, and Capuano. **Page H7702**

From the Committee on Veterans Affairs, for consideration of secs. 2810 and 2831 of the House bill, and secs. 642, 2821, and 2823 of the Senate amendment, and modifications committed to conference: Representatives Smith (NJ) Brown (SC), and Michaud. **Page H7702**

From the Committee on Ways & Means, for consideration of sec. 585 of the House bill, and sec. 653 of the Senate amendment, and modifications committed to conference: Representatives Shaw, Camp, and Rangel. **Page H7702**

Authorization to print a commemorative document in memory of the late President Ronald Reagan: By unanimous consent the House agreed to S. Con. Res. 135, authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan. **Page H7698**

Agreed to the Doolittle amendment that strikes language in section 1 and inserts new language in its place. **Page H7698**

Amending the Congressional Accountability Act of 1995: The House agreed by unanimous consent to pass H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms. **Pages H7698–99**

Recess: The House recessed at 5:47 p.m. and reconvened at 6:30 p.m. **Page H7699**

Discharge Petition: Representative Meehan moved to discharge the Committee on Rules from the consideration of H. Res 769, providing for consideration of H.R. 2038, to reauthorize the assault weapons ban (Discharge Petition No. 12).

Senate Message: Messages received from the Senate today appear on pages H7586 and H7714.

Quorum Calls—Votes: Two yea and nay votes and one recorded vote developed during the proceedings of today. There were no quorum calls. **Pages H7699–H7700, H7700, H7700–01**

Adjournment: The House met at 12:30 p.m. and adjourned at 11:21 p.m.

Committee Meetings

SCHOOLS SAFETY ACQUIRING FACULTY EXCELLENCE ACT OF 2004

Committee on Education and the Workforce: Subcommittee on 21st Century Competitiveness held a hearing on H.R. 2649, Schools Safety Acquiring Faculty Excellence Act of 2003. Testimony was heard from Donna Uzzell, Director, Criminal Justice Information Services, Department of Law Enforcement, State of Florida; and public witnesses.

SOCIAL SECURITY PRIVACY

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled "Protecting the Privacy of Consumers' Social Security Numbers." Testimony was heard from Thomas B. Leary, Commissioner, FTC; Barbara Bovbjerg, Director, Education, Workforce and Income Security, GAO; and a public witness.

OVERSIGHT—USDA RACIAL DISCRIMINATION CASE

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on the Status of the Implementation of the Pickford v. Glickman Settlement. Testimony was heard from public witnesses.

D.C. PERSONAL PROTECTION ACT

Committee on Rules: The Committee granted, by voice vote, a closed rule providing one hour of debate on H.R. 3193, District of Columbia Personal Protection Act, in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. The rule waives all points of order against consideration of the bill. The rule provides that the amendment printed in the report of the Committee on Rules accompanying the resolution shall be considered as adopted. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Souder and Norton.

MARRIAGE AMENDMENT

Committee on Rules: The Committee granted, by a vote of 6 to 2, a closed rule providing two hours and 30 minutes of debate on H.J. Res. 106, proposing an amendment to the Constitution of the United States relating to marriage, in the House equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The rule provides one motion to recommit. Section 2 of the resolution provides that during consideration of the bill, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Representatives Hostettler and Nadler.

CONTINUING APPROPRIATIONS FISCAL YEAR 2005

Committee on Rules: The Committee granted, by voice vote, a closed rule providing for one hour of debate on H.J. Res. 107, making further continuing appropriations for fiscal year 2005, and for other purposes, equally divided and controlled by the chairman and ranking minority members of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution. Finally, the rule provides one motion to recommit.

PUBLIC TRANSPORTATION TERRORISM PREVENTION AND RESPONSE ACT

Committee on Transportation and Infrastructure: Subcommittee on Highways, Transit, and Pipelines approved for full Committee action H.R. 5082, Public Transportation Terrorism Prevention and Response Act of 2004.

COMMITTEE MEETINGS FOR WEDNESDAY, SEPTEMBER 29, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine recommendations of the 9/11 Commission, focusing on efforts to identify and combat terrorist financing, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space, to hold hearings to examine the controversy over embryonic stem cell research, 2 p.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests, to hold hearings to examine S. 2410, to promote wildland firefighter safety; H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California; S. 2378, to provide for the conveyance of certian public land in Clark County, Nevada, for use as a heliport; H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal; H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; and S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act, 2:30 p.m., SD–366.

Committee on Foreign Relations: to hold hearings to examine the nominations of Ryan C. Crocker, of Washington, to be Ambassador to the Islamic Republic of Pakistan, Marcie B. Ries, of the District of Columbia, to be Ambassador to the Republic of Albania, Catherine Todd Bailey, of Kentucky, to be Ambassador to the Republic of Latvia, and Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development, 3 p.m., SD–419.

Committee on Indian Affairs: business meeting to consider pending calendar business; to be followed by an oversight hearing on lobbying practices involving Indian tribes, 9:30 a.m., SH–216.

House

Committee on Agriculture, Subcommittee on Conservation, Credit, Rural Development, and Research, hearing to review the Farm Credit System, 1:30 p.m., 1300 Longworth.

Committee on Armed Services, to mark up H.R. 10, 9/11 Recommendations Implementation Act, 1 p.m. 2118 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled ''Improving Women's Health: Understanding Depression After Pregnancy,'' 1 p.m., 2123 Rayburn.

Subcommittee on Telecommunications and the Internet, hearing entitled ''An Examination of Wireless Directory Assistance Policies and Programs,'' 10 a.m., 2322 Rayburn.

Committee on Financial Services, to consider the following bills; H.R. 5011, Military Personnel Financial Services Protection Act; H.R. 4634, Terrorism Insurance Backstop Extension Act of 2004; and H.R. 10, 9/11 Recommendations Implementation Act, 10 a.m., 2128 Rayburn.

Committee on Government Reform, to mark up the following bills: H.R. 10, 9/11 Recommendations Implementation Act; and H.R. 3281, Whistler Protection Enhancement Act, 10 a.m., 2154 Rayburn.

Committee on International Relations, hearing on Afghanistan: United States Strategies on the Eve of National Elections; followed by markup of S. 2292, Global Anti-Semitism Review Act of 2004, 10:30 a.m., 2172 Rayburn.

Committee on the Judiciary, to mark up the following measures: H.R. 10, 9/11 Recommendations Implementation Act; H.R. 4306, to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment; S. 1994. Mentally Ill Offender Treatment and Crime Reduction Act of 2003; H.R. 4547. Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2004; H. Res. 568, expressing the sense of the House of Representatives that Judicial determinations regarding the meaning of the laws of the United States should not be based on judgments, laws or pronouncements of foreign institutions unless such foreign judgements, laws, or pronouncements inform an understanding of the original meaning of the laws of the United States; H.R. 3143, International Consumer Protection Act of 2003; H.R. 4264, Animal Fighting Prohibition Enforcement Act of 2004; H.R. 775m Security and Fairness Enhancement for America Act of 2003; H.R. 4453, Access to Rural Physicians Improvements Act of 2004; and a private relief measure, 10 a.m., 2141 Rayburn.

Committee on Resources, to mark up the following bills: H.R. 855, Arizona Water Rights Settlement Act; H.R. 5134, To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes; and H.R. 5135, To provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands, 10 a.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, hearing on the following bills: H.R. 977, Aerial Firefighter Relief Act of 2003; H.R. 1550, To authorize the Secretary of the Interior and the Secretary of Agriculture to make grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes, and other commercial purposes; H.R. 1723, Caribbean National Forest Act of

2003; and H.R. 4461, Walnut Canyon Study Act, 2 p.m., 1334 Longworth.

Committee on Science, Subcommittee on Environment, Technology and Standards, to mark up H.R. 4546, National Oceanic and Atmospheric Administration Act, 2 p.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, to consider the following: GSA Fiscal Year 2005 Capital Investment and Leasing Program Resolutions; U.S. Army Corps of Engineers Resolutions; H.R. 5082, Public Transportation Terrorism Prevention and Response Act of 2004; H.R. 5105, To authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona; H.R. 5121, to further protect the United States aviation system from terrorist attacks; the National Health Museum Authorization Act; the Research and Special Programs Reorganization Act of 2004; and other pending business, 11 a.m., 167 Rayburn.

Permanent Select Committee on Intelligence, to mark up H.R. 10, 9/11 Recommendations Implementation Act, 1:30 p.m., 2175 Rayburn.

Select Committee on Homeland Security, Subcommittee on Emergency Preparedness and Response, hearing entitled ''The National Incident Management System: Enhancing Response to Terrorist Attacks,'' 10 a.m., 210 Cannon.

Joint Meetings

Conference: meeting of conferees on H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, 10 a.m., SD–628.

Next Meeting of the SENATE

9:30 a.m., Wednesday, September 29

Senate Chamber

Program for Wednesday: Senate will continue consideration of S. 2845, National Intelligence Reform Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, September 29

House Chamber

Program for Wednesday: Consideration of Suspensions:

(1) H.R. 5149—To reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005;

(2) H.R. 4768—Veterans Medical Facilities Management Act of 2004;

(3) H.R. 4231—Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004;

(4) H. Res. 759—Commending the Festival of Children Foundation for its outstanding efforts on behalf of children and expressing the support of the House of Representatives for the designation of a ''Child Awareness Month'';

(5) H. Res. 778—Commemorating the 100th anniversary of the birth of William ''Count'' Basie;

(6) H. Res. 792—Honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary;

(7) H. Con. Res. —Honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, congratulating Blue Note records on its 65th anniversary and Down Beat Magazine on its 70th anniversary, and supporting the annual Duke Ellington Jazz Festival;

(8) H.R. 4731—To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program;

(9) H.R. 5105—To authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative VERITAS project on Kitt Peak near Tucson, Arizona;

(10) H.R. 3124—F.H. Newell Building Designation Act; and

(11) H.R. 1402—Garza-Vela United States Courthouse Designation Act.

Consideration of H.R. 3193—District of Columbia Personal Protection Act (closed rule, one hour of general debate)

Extensions of Remarks, as inserted in this issue

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