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No. 43

## House of Representatives

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

### DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
April 13, 2005.

I hereby appoint the Honorable SHELLY MOORE CAPITO to act as Speaker pro tempore on this day.

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

### PRAYER

Dr. Curt Dodd, Senior Pastor, Westside Church, Omaha, Nebraska, offered the following prayer:

Dear Heavenly Father, I ask You this day to empower these representatives, wherever they may be, both in this House and in committee meetings, with true spiritual sensitivity. Give them wisdom to know the difference between loud, hollow requests and opportunities to positively impact an entire nation.

Protect them, O Father, from the temptation to be politically correct for the sake of a few while the audience of heaven watches and millions in posterity wait to weigh their influence.

Help them this day to engage with purpose, using this platform for Your glory and their personal growth. Protect their families, regardless of where they may be this day. Surround them with Your presence, giving confidence that You have met their every need. In turn, may they meet the needs of others through their actions this day.

Help them enjoy the privilege of representing millions of Americans this day. May their decisions this day change our country for the better tomorrow. Give them great joy in what they do in this place.

Father, may they experience what it really means to be in peace because of

a relationship with You through Your Son Jesus, for it is in Jesus' name we pray. Amen.

### THE JOURNAL

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

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

### PLEDGE OF ALLEGIANCE

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

Mr. STEARNS 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.

### RECOGNIZING PASTOR CURT DODD'S MINISTRY FOR CHRIST

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

Mr. TERRY. Madam Speaker, I have the distinct honor to recognize Pastor Curt Dodd, our guest chaplain in the House of Representatives today, and I also want to thank him for his thoughtful and inspiring prayer.

Dr. Dodd began his ministry as an intern at the First Baptist Church in Houston, Texas, in 1973. He was called to serve as associate pastor and then senior pastor at several Texas churches before shepherding the Metropolitan Baptist Church in Houston. Under Dr. Dodd's pastoral leadership, "the Met" received recognition as one of the fastest growing churches in Texas and the Southern Baptist Convention.

From 1995 to 1999, Dr. Dodd was called by God to leave his successful ministry at the church to start a

church in Pueblo, Colorado, one of that State's most under-reached areas. With his trademark enthusiasm and commitment to the Lord, he initiated several other church plants, including Fellowship of the Rockies in Colorado Springs. He then went to Florida to Merit Island, and now serves as the senior pastor of Westside Church in Omaha, Nebraska, where my family and I attend.

Dr. Dodd is also an accomplished author of three books: *Add One to Grow On*; *Hearts on Fire—the Keys to Dynamic Church Growth*; and *Running on Empty in the Fast Lane*.

With a heart for the local church and kingdom expansion, he has served on various national and international denominational boards, but his greatest accomplishments are seen in the eyes of the men and women who have heard and accepted the message he brings, that Jesus is our Lord and Saviour who died for our sins.

Madam Speaker, I know that I speak for my colleagues when I say we are proud and honored to have Dr. Dodd with us today.

### IT IS TIME TO LEAD AMERICA TO ENERGY INDEPENDENCE

(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. Madam Speaker, as summer approaches, I am concerned about the effect that rising gas prices are having on family budgets and small businesses. In the past 3 weeks, gas prices have skyrocketed by 19 cents because of growing demand, high crude oil prices, and higher refining costs.

Congress can help reduce gas prices by finally implementing a comprehensive national energy policy. For the past 4 years, the House has passed sound energy legislation that will reduce our reliance on foreign sources of

This symbol represents the time of day during the House proceedings, e.g.,  1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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energy, increase conservation and increase the use of clean, modern and reliable sources of energy. But Democrats are playing politics, smearing TOM DELAY, DICK CHENEY and Condoleezza Rice, and the United States still does not have a comprehensive national energy policy.

South Carolina families need relief from record high energy costs, and Congress can now act to lead America to greater energy independence. This is a matter of economic and national security and we cannot afford to wait another year.

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

#### PROTECTING THE NATION FROM AVIAN FLU

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

Mr. EMANUEL. Madam Speaker, this country is dangerously close to a real biological crisis. Yesterday we learned an American company mailed a deadly avian flu strain to 37,000 laboratories in the United States and around the world as part of a routine test kit. The potential error is a reminder of the real danger of a flu pandemic and the millions of deaths it could cause. It also reminds us of the responsibility as a Congress and as a Nation to improve our ability to produce and distribute flu vaccine and to prepare for the pandemic.

The Flu Protection Act, which Senator BAYH and I introduced, would help ensure that enough vaccine is produced each year, fund research to combat avian flu, and require the development of contingency plans in the case of a pandemic.

The impending crisis must encourage this administration to take action now. Earlier this month, President Bush took an important step when he authorized a quarantine to stem the spread of avian flu.

In a letter that Senator BAYH and I will send today to the White House, there are other steps the President can take without legislation. He can increase our vaccine stockpiles, help States and cities prepare for the crisis of a pandemic, and provide the incentives for vaccine manufacturers to increase their production.

Madam Speaker, yesterday's announcement reminds us that the next flu pandemic is just around the corner, and the time to act is now. Congress and the President should not wait for this disaster to reach our shores before acting to protect this Nation.

#### SUPPORT THE CHILD INTERSTATE ABORTION NOTIFICATION ACT

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

Ms. ROS-LEHTINEN. Madam Speaker, in most schools an underage child is

prohibited from attending a school field trip without first obtaining parental authorization, yet nothing forbids this child from being taken across State lines in disregard of State laws for the purpose of undergoing a life-altering procedure, an abortion.

Please note these documents from a local school district in which it is required to have extensive information and parental authorization for a simple field trip or for a release for disbursement of medication, a total of eight pages for a field trip or for giving an aspirin, even brought from the child's home. But for an abortion, nothing is required.

My legislation, the Child Interstate Abortion Notification Act, CIANA, would make it a Federal offense to transport an underage child across State lines in circumvention of State and local parental notification laws for the purpose of having an abortion. It will also require that, in a State without a parental notification requirement, abortion providers be required to notify a parent.

Today, CIANA will be marked up by the House Committee on the Judiciary. I hope we can pass the bill in the House quickly to protect our underage girls.

#### THE CHARADE OF GOP LEADERSHIP REGARDING THE ESTATE TAX

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

Mr. BLUMENAUER. Madam Speaker, I was moved by the words of Dr. Dodd from Omaha and thought about today's continuation of the charade our friends in the Republican leadership play, a very cynical game that they have done every Congress since I have been here that is both unnecessary and unjustified.

Instead of allowing the legislative process to work here to deal with the consensus that exists to raise estate tax limits and solve problems of family businesses and farms, instead they are going to go through an empty effort to repeal it altogether, which ultimately they know will not happen.

In the meantime, this week, 2.9 million families are caught in the snare of the Alternative Minimum Tax, not the fabulously wealthy who are dodging taxes but hundreds of thousands of hard-working, non-rich Americans, whose only sin is, they pay their taxes, they are raising their family and they are saving for the future.

Rather than the fixing the Alternative Minimum Tax, today's charade is a shameful dereliction of duty for American taxpayers.

#### LET THE DEATH TAX DIE FOR GOOD

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

Mr. PRICE of Georgia. Madam Speaker, it is time that we bury the death tax today, once and for all. For too long the American dream has turned into the American nightmare and for too many citizens and countless small businesses.

Many Americans with dreams take risks, invest their savings, work long hours, and the government keeps over half of their assets when they die, 55 percent. That is the amount Washington takes with the death tax, 55 percent, and that is not fair to anyone.

The death tax undermines our economy, and I know that we can do better. It costs our economy over 250,000 jobs a year. That is a quarter of a million people who should be collecting paychecks rather than unemployment checks.

Madam Speaker, the death tax is hurting families, and it is killing our small businesses. Freedom and liberty demand that hard-working Americans be able to leave their children the results of their success, not have Washington get a windfall. Let us act today and let the death tax die for good.

#### ETHICAL SYSTEM OF U.S. HOUSE OF REPRESENTATIVES

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

Ms. SOLIS. Madam Speaker, I rise today to urge my Republican colleagues to join me in restoring the ethical system to this Chamber.

Currently, a member of the Republican leadership is at the center of a troubling array of investigations into corruption, abuse of power and ethics violations. Instead of being forthright and open to these allegations, the Republican leadership has stripped the ethical rules of this institution to cater and protect one of their own. By doing so, Republican leadership has abandoned a tradition of trust and transparency in this body.

As Members of Congress, we are responsible to adhering to the ethical guidelines set forth by this Congress. As public servants, we must answer to the American public, and while we craft the law, we are not above the law.

I urge my colleagues to answer the concerns of the American public and remove the question of any possible ethics violations that tarnish the reputation of this Chamber. Democrats want to restore strong, bipartisan ethics rules. It is time Republicans join us in passing the Mollohan resolution and restore the ethical system and the integrity it upholds in the U.S. House of Representatives.

#### DEMOCRACY IN THE MIDDLE EAST

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

Mr. STEARNS. Madam Speaker, it has been 2 years since the United

States troops entered Iraq, and it has become clear that the democratic elections that have been provided to the people of Iraq through this campaign have begun to spread throughout the region.

In Beirut on Monday, hundreds of thousands of Lebanese protesters gathered in Martyr Square, which some are now calling Freedom Square, to demonstrate for the removal of Syrian troops to withdraw from Lebanon. They chanted, "Sovereignty, Freedom, and Independence."

When their prime minister was assassinated 4 weeks ago and replaced with a pro-Syrian prime minister, the Lebanese people took to the streets and called for freedom. Their protests sparked the resignation of the pro-Syrian prime minister.

Because of U.S. efforts in the Middle East, freedom is no longer something inconceivable to the people of this region. Instead, they have witnessed the spread of freedom to their neighbors and have been empowered by it.

We must continue to support policies which promote freedom in the Middle East.

MEMORIALIZING THE NATIONAL DAY OF SILENCE

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

Mr. FARR. Madam Speaker, I rise today to provide a voice for those too often silenced, the gay, lesbian, bisexual and transgendered students who face verbal, nonverbal and physical harassment in our schools.

□ 1015

Today is the National Day of Silence; and across the country, students have taken a vow of silence to protest the discrimination and intolerance that gay, lesbian, bisexual, and transgender people face on a daily basis. We must continue to promote the diversity that makes our country so rich, while denouncing stereotypes that make it harder for youths to accept themselves. Stereotypes also contribute to the harassment, prejudice, and discrimination that silence GLBT youth.

For that reason, I am proud to sponsor H.R. 123, which memorializes the National Day of Silence.

I would also like to highlight the new campaign from the Gay Lesbian Straight Education Network called TeachRespect.org.

I would also like to thank Mat Friday and Bruce Carlsen, community members in my district who are working hard to make K-12 schools safe, and especially Stewart Rosenstein, who is a tireless advocate for the GLBT youth in Santa Cruz, California.

I commend my colleague, the gentleman from New York (Mr. ENGEL), for introducing such important legislation. I urge my colleagues to be cosponsors.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

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

Mr. KENNEDY of Minnesota. Madam Speaker, this week is the 25th anniversary of National Crime Victims' Rights Week. When President Reagan first announced National Crime Victims' Rights Week, he said, "For too long, the victims of crime have been the forgotten persons of our criminal justice system. Each new victim personally represents an instance in which the system has failed, and lack of concern for victims compounds that failure."

The Crime Victims' Rights constitutional amendment is an important step forward that will empower crime victims by allowing them to confront their assailants in court and alerting them of prisoner releases and allowing victims to seek restitution from their attackers.

Last Congress, we passed the PROTECT Act, also known as the Amber Alert bill. The PROTECT Act stiffens penalties for sex offenders, eliminated the statute of limitations for these crimes, and created a national Amber Alert system. We passed the Debbie Smith Act, which funds expanding and improving the quality of crime labs to conduct DNA analyses to catch sex offenders and other criminals, ensuring that the right person is going to jail.

But there is more we can do. Last year, Minnesota suffered a great tragedy with Dru Sjodin being abducted. We need to pass Dru's Law this year.

ARROGANT MAJORITY DISMANTLES ETHICS PROCESS

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

Ms. SLAUGHTER. Madam Speaker, a dark cloud and a suspicion of corruption hangs over this House of Representatives. It is the talk of the Nation. With no Committee on Standards of Official Conduct or reasonable ethical standards to speak of, there is no hope that the dark cloud will recede and that daylight will be let in.

By systematically dismantling the House ethics process, the majority has denied this House the right to investigate its own Members and thus betrayed our core American values. Honesty, integrity, and accountability, the values, which should be the hallmark of this government, have instead been thrown under the bus by an arrogant majority, casualties in a misguided campaign to shield from accountability those who abuse this House.

This House cannot function without an open, accountable, and independent ethics process; and the molestation of that process by the majority is an abuse of power that cannot stand.

It is for these reasons I have repeatedly asked the Chair of the Committee

on Rules to hold a bipartisan ethics hearing. As guardians of the democratic process, our Committee on Rules has the unique responsibility to protect the integrity of this hallowed institution.

What are we waiting for? This dark cloud must be lifted, the air must be cleansed, and the ethics rules must be fully restored, because the very credibility of the government and its ability to lead the American people hang in the balance.

DEATH TAX REPEAL PERMANENCY ACT KEEPS FAMILY FARMS THRIVING

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

Mr. RYUN of Kansas. Madam Speaker, I rise today to urge my colleagues to vote to permanently repeal the death tax. The death tax hurts average Americans who have worked hard to build a family business and want to pass it on to their children.

Arguments from my colleagues on the other side of the aisle ignore those who the death tax hurts the most. I am particularly concerned about one group of people impacted by the death tax, and that is the family farm.

There are approximately 2 million family farms in America, many of which are in my district, the second district of Kansas. These farms produce 94 percent of the American agricultural products that are sold. More importantly, however, they pay death taxes as high as 47 percent when they deed the farm to their children. Furthermore, there are twice as many farm estates paying death taxes than any other type of estates combined. This troubles me because family farms cannot afford to pay high taxes that could be pushing them out of business.

Unless we act, the death tax will be reinstated in 2011. If that happens, countless family farms will be forced to sell land, buildings, and equipment, putting them out of business.

For this reason, I urge my colleagues to vote in favor of the family farm and vote for the Death Tax Repeal Permanency Act.

REPUBLICAN-LEANING "PLAIN DEALER" EDITORIAL SEEKS BREATH OF INTEGRITY

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

Mr. BROWN of Ohio. Madam Speaker, from April 8, a Plain Dealer editorial from a Cleveland Republican-leaning newspapers writes: "Tom DeLay, the House Majority Leader, can fashion what to him is a reasonable explanation for each of the ethics questions increasingly being raised against him."

"It's a witch hunt by a Democrat out to destroy him," DeLay responds. This is the Plain Dealer writing.

“To each of these and far too many more defensive responses, his faithful defenders, especially those who have bathed regularly under the campaign money spigot he controls, shout a loud ‘amen’ and accuse the Times and Post of mounting a liberal smear campaign.

“But the ranks of DeLay’s defenders shrink almost daily, as they should.”

The Republican-leaning Plain Dealer then asks: “Is the Sugarland sugar daddy the best their party has to offer the Nation in this key leadership post? Can they not find a fellow Republican wise enough to avoid, in terms he might understand, the very appearance of evil? Can’t someone open a window and let in a breath of integrity to blow the growing stench out of the people’s Chamber?”

Words from a newspaper that endorsed George Bush in 2000, the Cleveland Plain Dealer, April 8.

#### SANDY BERGER’S DEAL IS SHADY

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

Mr. PITTS. Madam Speaker, last year, former Clinton National Security Adviser Sandy Berger stole classified documents from the National Archives, five copies of an “after-action” memo on the 2000 millennium terror plot, to be precise. He later destroyed, he cut up, three of the copies that contained handwritten notes from administration officials. Then, he lied about it to Federal investigators. The memo was severely critical of the Clinton administration’s handling of the incident.

Recently, we learned that Mr. Berger made a deal with Federal officials, and the deal was not 5 years in prison instead of 10. No, he gets a slap on the wrist in exchange for admitting he lied.

So let us just make sure we have the score right here. Martha Stewart tells a lie about a stock sale; she goes to prison. Sandy Berger lies about stealing and destroying national security documents; he gets a slap on the wrist. So send the person who lied about money to jail, but go easy on the person who lied about stolen and destroyed classified documents who tried to cover up the public record on an issue of life and death and national security.

Justice? Sorry to say, not this time.

#### TRIBUTE TO THE HONORABLE DAN PEARL

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

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today to pay tribute to the honorable Dan Pearl.

Mayor Pearl retired in 1972 to the town of Sunrise, Florida, in Broward County after having served 30 years as a parole officer with the New York Division of Parole.

In 1979, he was first elected to the Sunrise City Council and later served as mayor and deputy mayor. It was during his tenure as mayor that Sunrise made the transition from a strong-mayor system to a professionalized city government administered by a city manager.

In appreciation of his tireless service to his community, county officials took the unprecedented step of naming the Oakland Park Boulevard Library after Mayor Pearl in 1993.

Those of us who had the pleasure of working with Mayor Pearl will always remember his contributions and insights as a public servant. He was a member of numerous boards and organizations, including the Florida League of Cities, the Gold Coast League of Cities, the Broward Planning Council, the South Florida Regional Planning Council, and the American Cancer Society.

His death in 1996 was a tremendous loss to his family, colleagues, and the citizens of south Florida; but we will always remember the warmth, sincerity, and friendliness of Dan Pearl that he shared with everyone.

On behalf of the people of south Florida, it is my honor to salute the life and legacy of Mayor Dan Pearl.

#### END THE TYRANNY OF ANXIETY OF APRIL 15

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

Mr. PENCE. Madam Speaker, it is April 13; and to my fellow American procrastinators I say, 2 days and counting, until tax day, April 15.

In 2003 alone, Americans spent \$203 billion just preparing our taxes, let alone paying for them. Madam Speaker, 1 billion hours in annual paperwork has been added to tax preparation in just the last 10 years.

Think of these comparisons: in 2003, your 1040 form is 73 lines long. In 1935 it was 34 lines long. In 2003, your 1040 booklet was 131 pages. When it was created in 1935, it was 2 pages.

Are we having fun yet? I say no.

Today we will scrap the death tax, and well we should. But while we are at it, let this majority rededicate itself to scrap the code, to create a new flatter and fairer and simpler system that ends the tyranny of April 15 on the American people, a tyranny of anxiety.

#### ETHICS ISSUES SHOULD BE ADDRESSED IN THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

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

Mr. CROWLEY. Madam Speaker, the ethics of this House, the people’s House, and this leadership have been questioned.

Madam Speaker, the leadership of the majority is being investigated by

no more than 15 newspaper investigative reporters. And while all this happens, the Committee on Standards of Official Conduct, our Committee on Standards of Official Conduct, stands silent, locked tighter than a drum, deadlocked. This time, the majority cannot blame anyone but themselves. They cannot blame the Democratic Party.

The majority threw out the rules and House ethics. They removed the former Chair because of his independence and changed the rules to make delay and denial easier and facts harder to find.

The ethics issues that are being investigated need to be addressed, and where they should be addressed is in the House Committee on Standards of Official Conduct.

The Republicans need to break this logjam and make the Committee on Standards of Official Conduct the most respected committee in the Congress, instead of the partisan political tool that it has become.

#### MAJORITY AGENDA UNFAIR AND UNAMERICAN

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

Mr. MORAN of Virginia. Madam Speaker, the House majority today is about to increase our deficit by \$290 billion. We are going to offer an alternative; but they will reject that alternative so that they can take care of three-tenths of 1 percent of the very wealthiest people in this country. For the difference in cost, you could restore food stamps to 300,000 families; you could restore medical care to the 7 million poor elderly people in the nursing homes that you just cut from the Medicaid program; you could restore 300,000 day care slots for poor children.

These are people who suffer from the accident of birth and, in many cases, only because of the accident of birth; in order to reward a handful of families who are advantaged by the accident of birth, who have the very best education, the very best contacts, the very best prospects for economic success, and yet we will take billions, tens of billions, hundreds of billions of dollars out of Federal revenue to reward that three-tenths of 1 percent. That is unfair, and it is un-American. This was envisioned as a Nation of equal opportunity, not one of inherited aristocracy.

#### BRING BACK INTEGRITY TO THE HOUSE OF REPRESENTATIVES

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

Mr. MCGOVERN. Madam Speaker, I rise today to discuss the Republican majority’s ongoing disregard for the democratic process in the United States House of Representatives.

In the last Congress, the arrogance of power coming from the other side of

the aisle was breathtaking. This Congress, it is only getting worse.

The majority has consistently used closed and highly-restrictive rules to stop Members of both parties from offering amendments to important legislation. They have rushed major bills to the floor without even giving Members a chance to read them. They have given special interests and their lobbyists unprecedented access and influence. Votes were kept open for hours in an attempt to threaten Members into voting a certain way, and they have completely gutted the ethics process here in the House.

This blatant disregard for democracy shows disrespect, not just for Members of Congress but, more importantly, for the people we all represent; and it has to stop. We can start by reestablishing a real bipartisan Committee on Standards of Official Conduct and restoring the meaningful ethics rules that the Republican leadership threw away in January.

Madam Speaker, I urge my colleagues to bring back the integrity of this House.

□ 1030

ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

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

Record votes on postponed questions will be taken later in the day.

JUSTIN W. WILLIAMS UNITED  
STATES ATTORNEY'S BUILDING

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1463) to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

The Clerk read as follows:

H.R. 1463

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

**SECTION 1. DESIGNATION.**

(a) IN GENERAL.—The building and structure described in subsection (b) shall be known and designated as the "Justin W. Williams United States Attorney's Building".

(b) DESCRIPTION.—The building and structure to be designated under subsection (a) is that portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, that is attached to the Federal building's main tower structure, described as A-Wing in the architectural plans, and currently occupied by the Office of the United States Attorney for the Eastern District of Virginia, Alexandria Division.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building and structure

described in section 1(b) shall be deemed to be a reference to the "Justin W. Williams United States Attorney's Building".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for appropriate identifying designations to be affixed to the building and structure described in section 1(b) and for an appropriate plaque reflecting the designation and honoring Justin W. Williams and his service to the Nation to be affixed to or displayed in such building and structure.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

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

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

H.R. 1463 introduced by the gentleman from Virginia (Mr. TOM DAVIS) designates 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. The full courthouse is known as the Albert V. Bryan United States Courthouse.

This is the second time this matter has come before the House, having previously been considered during the 108th Congress when it passed by voice vote. As before, the bill has the bipartisan support of the entire Virginia delegation.

Born in New York City in 1942, Justin Williams earned his Bachelor's degree from Columbia University in 1963 and his law degree from the University of Virginia in 1967. After graduation, Justin Williams embarked upon his legal career. From 1967 until 1986, he worked for the Department of Justice Criminal Division, served as Assistant Commonwealth Attorney in Arlington County, and Assistant U.S. attorney for the Eastern District of Virginia based in Alexandria.

In 1986, Justin Williams was appointed chief of the Criminal Division and served in that capacity until his death in 2003.

It is my honor to bring this bill to the floor, which honors a dedicated American who spent his entire career making America safer for everyone. I support this legislation and encourage my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

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

H.R. 1436 is a bill to designate a portion of the Alexandria courthouse located at 2100 Jamieson Avenue as the Justin W. Williams United States Attorney's Building. In the 108th Congress, an identical bill, H.R. 3428, was introduced but did not receive action from the other body.

H.R. 1463 was introduced by my colleague, the gentleman from Virginia (Mr. TOM DAVIS), and enjoys strong bipartisan support.

U.S. Attorney Justin Williams was an extraordinary public servant who

served the citizens of Virginia for over 30 years. He received his undergraduate degree from Columbia University and his law degree from the University of Virginia. During his 33 years as a Federal prosecutor he supervised or was directly involved in every major Federal prosecution in the Eastern District of Virginia.

His career is filled with numerous awards and honors, including the Attorney General's Award for Excellence that is awarded for furthering the interests of national security, the Director's award for superior performance in years 1990, 2000, 2002, and Sustained Superior Performance for the years 1990, 1991, 1997, 1998 and 1999.

In addition to being an outstanding lawyer, Justin Williams was a thoughtful mentor, loyal friend, outstanding role model, devoted husband and loving father; and it is most fitting we honor the distinguished career of this dedicated public servant with this designation.

Madam Speaker, I reserve the balance of my time.

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

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

Mr. WOLF. Madam Speaker, I rise today in support of H.R. 1463, which my colleague and good friend, the gentleman from Virginia (Mr. TOM DAVIS), introduced to recognize the important contributions Justin W. Williams made to justice and freedom in our society.

The gentleman from Virginia (Chairman DAVIS) is in a markup in the full committee and asked if I would come over to read this statement to represent him.

Justice Williams was born in New York City in 1942, earned a Bachelor's Degree, as was said, from Columbia University in 1963 and a law degree from UVA in 1967.

After law school, he worked for the Department of Justice Criminal Division from 1967 through 1968, then served as Assistant Commonwealth's Attorney in Arlington County from 1968 to 1970.

His career as a Federal prosecutor began on May 11, 1970. During the ensuing 33 years he was either directly involved or supervised every major Federal prosecution in the Eastern District of Virginia; and, as Members know, that is one the more difficult districts in the country.

Mr. Williams was appointed Acting United States Attorney on two occasions, June, 1979, to November, 1981, and January, 1986, to June, 1986.

He was also at various times First Assistant United States Attorney, Senior Litigation Counsel and, for most of his career, Chief of the Criminal Division of the United States Attorney's Office for the Eastern District of Virginia.

As Chief of the Criminal Division, Justin Williams supervised over 100

prosecutors and oversaw such high-profile trials as U.S. vs. Aldrich Ames, Aldrich Ames, a spy from the CIA who sold out his government; U.S. vs. Robert Hanssen, Robert Hanssen, an FBI agent who sold out his government to the Soviet Union, both of whom were convicted for spying for the Soviet Union.

He also led the prosecution of the Virginia Jihad Network.

His many accomplishments, far too numerous to list, include the Attorney General's Award for Excellence in furthering the Interest of the United States National Security, Section 2002, as well as three Director's Awards for Superior Performance as an Assistant United States Attorney.

On August 31, 2003, Mr. Williams died tragically at the age of 61 from an apparent heart attack as he jogged along the Potomac River in Old Town, Alexandria, Virginia, leaving his wife, Suzanne, and children Andrew and Caitlin.

His untimely death marked the end of a career of a truly remarkable public servant who was loved and respected by all his colleagues and those who had the pleasure of knowing him.

Mr. Williams was revered as a mentor and role model, and his legacy will serve as a testimonial to courage, conviction, fairness and decency.

Madam Speaker, we owe Justin Williams and his family and all those in the legal field who have chosen a career in public service a debt of gratitude.

I urge my colleagues to forever remember Justin Williams and keep a record in our mind and in our hearts as we pass by the building. And on behalf of the gentleman from Virginia (Mr. TOM DAVIS), Chairman DAVIS, I urge the support of this and will supply the statement for the record.

Madam Speaker, I rise today in support of H.R. 1463, which my colleague and good friend TOM DAVIS introduced to recognize the important contributions Justin W. Williams made to justice and freedom in our society.

Justin W. Williams was born in New York City in 1942. He earned his Bachelor's Degree from Columbia University in 1963 and his law degree from the University of Virginia in 1967. After law school, he worked for the Department of Justice, Criminal Division from 1967–1968, then served as Assistant Commonwealth's Attorney in Arlington County from 1968–1970.

Mr. Williams' career as a Federal prosecutor began on May 11, 1970. During the ensuing 33 years he was either directly involved in or supervised every major federal prosecution in the Eastern District of Virginia. Mr. Williams was appointed Acting United States Attorney on two occasions, June 1979 to November 1981 and January 1986 to June 1986. He was also at various times First Assistant United States Attorney, Senior Litigation Counsel, and for most of his illustrious career Chief of the Criminal Division of the United States Attorney's Office for the Eastern District of Virginia. As Chief of the Criminal Division, Justin Williams supervised over 100 prosecutors, and oversaw such high profile trials as U.S. v. Al-

drich Ames, U.S. v. Robert Hanssen, both of whom were convicted of spying for the Soviet Union. He also led the prosecution of the Virginia Jihad Network.

His many accomplishments and awards, far too numerous to list, included the Attorney General's Award for Excellence in Furthering the Interest of the United States National Security (2002), as well as three Directors' Awards for Superior Performance as an Assistant United States Attorney.

On August 31, 2003, Mr. Williams died tragically at the age of 61 from an apparent heart attack as he jogged along the Potomac River in Old Town, Alexandria, Virginia, leaving his wife Suzanne and children Andrew and Caitlin. His untimely death marked the end of a career of a truly remarkable public servant who was loved and respected by all of his colleagues and those who had the pleasure of knowing him. Mr. Williams was revered as a mentor and role model and his legacy will serve as a testimonial to courage, conviction, fairness, and decency.

Madam Speaker, we owe Justin Williams, and all those in the legal field who have chosen a career in public service a debt of gratitude. I urge all my colleagues to forever remember Justin Williams and to keep a record in our minds, and in our hearts, of the great sacrifices made by all men and women in the legal community who have served and continue to serve our great Nation.

I thank the Virginia delegation for their support of this resolution and I ask all members to support H.R. 1463.

Mr. HONDA. Madam Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Madam Speaker, I thank my friend and colleague from California (Mr. HONDA) for yielding me this time in order to give some much-deserved recognition to Justin Williams.

As our colleague, the gentleman from Virginia (Mr. WOLF) has explained, Chairman DAVIS has to be in a hearing, but I know the chairman is very much disappointed he is not able to speak on this bill that he introduced.

We want to name the Federal building on Jamieson Avenue in Alexandria, Virginia, just by the Federal courthouse, after Justin Williams because he was such an outstanding Federal prosecutor.

He passed away August 31, 2003, while he was running along the Potomac River in Old Town. He had a heart attack. We lost a tremendous asset to the country and to the Department of Justice. Mr. Williams was also a wonderful friend to all who knew and worked with him.

Justin Williams began his career as a lawyer after attending Columbia University. He then went to law school at the University of Virginia, where he graduated in 1967.

He then moved to the Washington, DC, area and worked at the Department of Justice Criminal Division. In 1968, he served as the Commonwealth's attorney for Arlington County before going back to the Federal Government in 1970.

He then became a Federal prosecutor for the U.S. Attorney's Office in Alex-

andria, was named Chief of the Criminal Division and an Assistant U.S. Attorney for the Eastern District of Virginia.

As a Federal prosecutor, as has been said, he was responsible for the prosecution of several terribly important high-profile cases, including Aldrich Ames, Robert Hanssen, and many cases involving terrorists after September 11. After the Robert Hanssen case, Mr. Williams was honored by Attorney General Ashcroft for his role in that prosecution.

He has received so many awards for his accomplishments as a Federal prosecutor that we can't list them all here. He was named Acting U.S. Attorney on two separate occasions. But he will be most remembered not just for the accolades that he received but for the kindness that he showed toward those he served throughout his tenure.

As a supervisor for more than a hundred other prosecutors, he was a mentor and a role model to the attorneys that were just beginning their careers. He had an incredible ability to remember cases, to put cases in context. He was always willing to share that extensive knowledge with his colleagues.

He had a superb reputation with the judges he worked with and was known for having a very sound legal mind. Everybody remembers him for his sense of humor, his humility and his good judgment.

We want to pass along our condolences to Mr. Williams' wife, Suzanne, his children, Andrew and Caitlin, and the other members of his extended family, his friends and his colleagues who feel his loss so deeply. His memory will not soon fade.

His service not only to our Nation but also to the people of Virginia certainly justifies naming this building by the Federal courthouse in Alexandria the Justin W. Williams United States Attorney's Building. His lasting legacy will be felt by all who work in this Federal building and especially by those who carry the responsibility of working as a Federal prosecutor in the future. May they be inspired by Mr. Williams' commitment to excellence and service to our country.

Mr. OBERSTAR. Madam Speaker, I rise in support of H.R. 1463, a bill to designate the A-Wing portion of the new United States courthouse located at 2100 Jamieson Ave, in Alexandria, Virginia as the "Justin W. Williams United States Attorney's Building."

This designation honors former Assistant U.S. Attorney Justin Williams. Mr. Williams enjoyed a remarkable and distinguished career in public service. After his graduation from the University of Virginia Law School in 1967, he accepted a job as an attorney in the Criminal Division in the U.S. Department of Justice. He also served as an Assistant Commonwealth's Attorney in Arlington County, Virginia, and in 1970, he accepted an appointment as an Assistant U.S. Attorney in the Eastern District of Virginia where he served for 33 years until his death in August 2003.

At various times in his career, he held the position of Acting U.S. Attorney, First Assistant

U.S. Attorney, Senior Litigation Counsel, and Chief of the Criminal Division for the Eastern District of Virginia. As Chief of the Criminal Division, to which he was appointed in 1986, Mr. Williams was involved in virtually all major federal prosecutions in that District and was responsible for many high profile cases, including *U.S. v. Aldrich Ames* and *U.S. v. Robert Hanssen*. In each position, he consistently displayed the highest levels of professionalism, serving with distinction and honor.

During his long and distinguished career, Mr. Williams received a number of awards and honors, including the U.S. Attorney General's Award for Excellence in Further in the Interests of U.S. National Security. He was deeply admired by all his colleagues and loved by his family and friends, and he served as a role model and mentor for all worked with him in the U.S. Attorney's office.

H.R. 1463 has strong bipartisan support from many members of the Virginia delegation. I also support the bill and urge its passage.

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

Mr. HONDA. Madam 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 Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1463.

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. HONDA. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

REYNALDO G. GARZA AND FILEMON B. VELA UNITED STATES COURTHOUSE

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 483) to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

The Clerk read as follows:

H.R. 483

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

**SECTION 1. DESIGNATION.**

The United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, shall be designated and known as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

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

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

H.R. 438, introduced by the gentleman from Texas (Mr. ORTIZ), designates the United States courthouse located in Brownsville, Texas, as the Reynaldo G. Garza and Filemon B. Vela United States courthouse.

This is the second time the Congress has considered this matter, having previously passed identical legislation by voice vote during the 108th Congress.

This legislation honors two men for their service to their country, both inside and out of public service.

Reynaldo Guerra Garza was born in Brownsville, Texas, and spent his lifetime serving that community.

President Kennedy appointed then State Judge Garza to the U.S. District Court for the Southern District of Texas in 1961. At that time, Judge Garza became the first Mexican American on any U.S. District Court.

In 1979, when Jimmy Carter appointed him to the Fifth Circuit Court of Appeals, Judge Garza became the first Mexican American to serve in that position.

Filemon Bartolome Vela was born and raised in Harlingen, Texas. Like Judge Garza, he dedicated his life to South Texas, first as a State judge and then as a Federal judge, taking over the District Court seat vacated by Judge Garza upon his appointment to the Circuit Court of Appeals.

Judge Vela is perhaps best known in the community for his work with schools, encouraging youth education and literacy programs.

□ 1045

This naming is fitting tribute to their dedicated service, and I urge my colleagues to support this legislation.

I would also like to recognize my colleague, the gentleman from Texas (Mr. ORTIZ), for his dedication to bringing this legislation to the floor. I thank him for ensuring these men are recognized for their service.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I join with the gentleman from Brownsville, Texas (Mr. ORTIZ), in supporting H.R. 483, a bill to name the courthouse in Brownsville, Texas, as the Reynaldo G. Garza-Filemon B. Vela United States Courthouse.

Madam Speaker, this bill honors the life and works of two extraordinary Mexican Americans. The first honoree, Judge Reynaldo Garza, was born in Brownsville in 1915. He graduated from local elementary schools as well as Brownsville High School. After grad-

uating from Brownsville Junior College, he attended the University of Texas where he received the combined degrees of Bachelor of Arts and Bachelor of Law.

Judge Garza served his country during World War II in the Air Force. After the war he returned to Brownsville to practice law.

In 1961 President Kennedy appointed Judge Garza to the district court for the Southern District of Texas. In 1979 President Carter appointed him to the United States Court of Appeals for the 5th Circuit. In addition to his judicial duties, Judge Garza has long been interested in education issues.

He served former Governors John Connally and Mark White on commissions to improve the quality of education in Texas. Judge Garza recognized the importance of education in judicial proceedings and his concern for uneducated men at the mercy of unscrupulous people.

Judge Garza was very active in his church and has served the Knights of Columbus in the Brownsville area for many years.

Pope Pius XII twice decorated Judge Garza for his work on behalf of public charities. In 1989 Judge Garza was honored by the University of Texas with a Distinguished Alumnus Award.

His record of public service includes the work with the Rotary Club, the Latin-American Relation Committee in Brownsville, trustee at his law school, advisory council for the Boy Scouts, and he was elected as the city commissioner for the City of Brownsville.

It is fitting and proper to honor Judge Garza's outstanding, rich life, his commitment to excellence and his numerous public contributions.

The second honoree, Madam Speaker, Judge Filemon Vela, was also a native Texan and a veteran of the United States Army. He attended Texas Southmost College and the University of Texas. His law degree is from St. Mary's School of Law in San Antonio.

Judge Vela served as a commissioner of the City of Brownsville. He was a member of the Judges Advisory Committee to the U.S. Sentencing Commission. Judge Vela is a former law instructor and an attorney for the Cameron County Child Welfare Department.

His civic activities including being the charter president for the Esperanza Home for Boys and the co-sponsor of the Spanish Radio Program "Enrich Your Life, Complete Your Studies." Judge Vela's other civic activities include membership on the Independent School District Task Force and membership in the general assembly of the Texas Catholic Conference. He is also an active member of the Lions Club.

Judge Vela was nominated by President Carter for the Federal bench and was confirmed by the United States Senate in 1980.

Judge Vela's career is filled with successes, commitment to his family, devotion to his religion and his church,

love for his work and respect for his colleagues. It is most fitting to honor Judge Vela with this designation.

I join the gentleman from Texas (Mr. ORTIZ) in supporting H.R. 483.

Madam Speaker, I reserve the balance of my time.

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

Mr. HONDA. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ), the author of this bill.

Mr. ORTIZ. Madam Speaker, I thank the gentleman for yielding me time. I think the gentleman has done a great job in describing the contributions of two great giants from south Texas. I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from West Virginia (Mr. MOLLOHAN) and the gentleman from Pennsylvania (Mr. SHUSTER) and all those involved who helped expedite this bill.

This is not the first time this bill has been before the House. It has passed two or three times, but it has stalled in the Senate. This bill would rename the Brownsville courthouse for two legislative giants from south Texas. This bill will rename the courthouse the Reynaldo G. Garza and the Filemon B. Vela United States Courthouse.

We have a wealth of riches in south Texas, including these two giants of men. Reynaldo Garza was the first Hispanic appointed to the Federal bench by President John F. Kennedy in 1961 and Judge Filemon Vela was appointed to the Federal bench by President Jimmy Carter back in 1980. Both of these men have become legends in the south Texas area by virtue of their commitment to education and to our community. Both heroes passed away last year.

This legislation is noncontroversial, and I hope the Senate will quickly consider and pass this as well.

I thank the House and my friends for helping expedite this bill again to get to the floor.

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

Mr. HONDA. Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Madam Speaker, I rise today in strong support of H.R. 483, the Garza-Vela United States Courthouse Designation Act, offered by my colleague and my good friend, the gentleman from Texas (Mr. ORTIZ).

This bill pays tribute to two great Americans, Federal Judge Reynaldo Garza and Federal Judge Filemon Vela who were judicial legends in the great State of Texas.

Judge Garza was the Nation's first Mexican American Federal district judge appointed to the Federal bench by President Kennedy in 1961. This outstanding man had done advanced study in the field of law and was a great orator.

Judge Garza served our Nation through the turbulent years of the civil rights movement. His decisions contributed to the changes that opened up many opportunities for minorities.

In 1976 President Carter asked him to serve as the Nation's Attorney General, but he declined because he did not want to leave his beloved south Texas and his service on the Federal bench. He did, however, accept an appointment to the 5th Court of Appeals by President Carter and for many years commuted back and forth between south Texas and the circuit court in New Orleans.

In 1982 he obtained senior status; and even after his retirement, he remained active by filling in on the bench whenever he was needed. He was committed to education, particularly in encouraging literacy; and he was known and highly respected by everyone for the even-handed way in which he dispensed justice.

I served 1 year as foreman of a Federal grand jury which he appointed in his district court in Brownsville, Texas. It was a privilege and a pleasure to work with him and meet in his chamber where I witnessed firsthand the honesty, the integrity, and compassion of this gentleman from south Texas.

His last official act took place from his hospital bed when he officiated the swearing in of his protegee, Federal Judge Ricardo H. Hinojosa, as the new chairman of the Federal Sentencing Commission.

Judge Vela was nominated to the Federal bench by President Carter in 1980. He became an expert on comparative American and Mexican law. During his tenure, the Federal docket dramatically increased due to the enormous population growth in south Texas. Yet despite the heavy case load, Judge Vela fought to ensure that every person received prompt and fair treatment. He worked tirelessly to design and have built the new courthouse in Brownsville. It is indeed fitting that his name will be on this new Federal courthouse.

Judge Vela, like his good friend Judge Garza, was known for his impeccable integrity and his willingness to mentor young attorneys. He also was passionate about teaching children about the law and the criminal justice system in order to encourage them to make right choices of life. He would bring inmates to school auditorium programs to tell children about the mistakes they had made and the consequences they suffered as a result.

Judge Vela had one of the longest running and most successful radio programs on legal subjects which was broadcast in Spanish to more than 2 million listeners in south Texas and northern Mexico.

He also participated in 220 Spanish radio programs entitled "Enriquezca Su Vida, Termine Sus Estudios," meaning "enrich your life, complete your studies," that focused on encouraging children to stay in school and off drugs.

He was tireless when it came to community involvement and showing compassion for low-income families. I am

proud to have called him my second cousin.

He gave countless hours as a mentor and leader to youth programs whether as an attorney for the Cameron County Child Welfare Department, as founder of the Esperanza Home for Boys, or as the Chair of the Board of Rio Grande Marine Institute Home for Youth.

We lost both of these great men last year, but their service to the people of Texas and to this great Nation must not be forgotten.

I urge my colleagues to support this legislation that provides a fitting tribute to these two great Americans.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of H.R. 483, a bill to honor two members of the United States Judiciary. The bill would designate the federal courthouse located in Brownsville, Texas as the Reynaldo G. Garza and the Filemon B. Vela United States Courthouse. I'd like to recognize the Gentleman from Texas, Congressman ORTIZ, for introducing this bill. The Gentleman introduced this same legislation in the 108th Congress, which passed the House last September. Unfortunately, the Other Body did not act on that bill. I am hopeful that with our passage of the bill today, the Senate will take quick action on it.

These two jurists displayed the very finest in legal scholarship. Judges Garza and Vela have contributed several decades of legal excellence to the judicial system of the United States. In addition, both these gentlemen have made substantial contributions, through extensive volunteer efforts, to the well being of their communities.

Judge Reynaldo Garza was appointed by President Kennedy to the federal bench and was the first Hispanic Federal Judge. After serving in the federal district court, Judge Garza was appointed to the U.S. Court of Appeals for the Fifth Circuit. He also served on the Brownsville Independent School Board, the Texas Educational Standards Committee, and the Select Committee on Higher Education.

When Judge Garza was appointed to the Fifth Circuit, Judge Filemon Vela succeeded him on the U.S. District Court for the Southern District of Texas in Brownsville. Judge Vela had a history of service to the community of South Texas. He worked closely with The Esperanza Home for Boys, and headed numerous local activities to encourage young people to stay in school. He was an active member of the Texas Conference of Churches and was former district Chairman of the Boys Scouts of America.

Judges Garza and Vela were active members in numerous civic organizations including the Texas Bar Association, and the United States Sentencing Commission, Brownsville Rotary Club, the Latin American Relations Committee, and the Brownsville Chamber of Commerce. They were beloved and revered members of the Mexican-American community, the judicial community, and the city of Brownsville.

Judges Garza and Vela were outstanding jurists and good friends. This designation is a fitting tribute to their distinguished public and civic careers of two remarkable Texans and I urge its adoption.

Mr. REYES. Madam Speaker, it is rare that a man has a chance to know his heroes. It is



even rarer for a man to be able to stand shoulder to shoulder with his heroes as a fellow community leader. While serving as Border Patrol Sector Chief for the McAllen, Texas sector, however, I had that chance. Today, we are remembering the lives and groundbreaking achievements of the late Judges Reynaldo Guerra Garza and Filemon Vela and inscribing the U.S. Courthouse in Brownsville with their names.

Like me, Judge Garza came from a humble background, from a family whose parents were born in Mexico and came to this country in search of opportunity for their children. He rose to preside over one of the highest courts in the land, in the process becoming the first Mexican-American federal district judge and rendering some of the most important civil rights decisions in this country's history. Judge Garza ended his career on the prestigious Fifth Circuit of the U.S. Court of Appeals.

Judge Vela, much like Judge Garza, grew up of modest means in South Texas. He is remembered as a hard-working and committed judge whose impact was felt not only in the courtroom, but in the community as well.

Perhaps the essential message for me to convey here, however, is that each of these men spent considerable time and effort emphasizing the incredible power of education. Both Judges Garza and Vela understood how education could transform the lives of young people, because they and their families had benefited greatly from it.

Madam Speaker, I urge all of my colleagues to support this legislation naming the courthouse in Brownsville, Texas after Reynaldo G. Garza and Filemon B. Vela—two great judges, great role models, and great men.

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

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

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 483.

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.

#### ROBERT T. MATSUI UNITED STATES COURTHOUSE

Mr. SHUSTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 787) to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

The Clerk read as follows:

H.R. 787

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

#### SECTION 1. DESIGNATION.

The United States courthouse located at 501 I Street in Sacramento, California, shall be known and designated as the "Robert T. Matsui United States Courthouse".

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Robert T. Matsui United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from California (Mr. HONDA) each will control 20 minutes.

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

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

Madam Speaker, H.R. 787 introduced by the gentleman from California (Mr. THOMPSON), honors the late Bob Matsui, a distinguished and well-liked Member of this body.

A well-respected attorney and former city councilman, Bob Matsui served in this body for 26 years before his passing away on New Year's Day of this year.

Since his passing, much has been said about our late colleague by Members that knew him better than I, many of whom are here today. So I will leave it to them to speak of his many and varied talents and abilities.

This naming is a fitting tribute to an exceptionally fine person, a dedicated public servant, and a respected colleague.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in strong support of H.R. 787, a bill to name the courthouse in Sacramento in honor of our former colleague, Robert T. Matsui. This bill has broad bipartisan support from both his California colleagues and all of us who had the distinct privilege of serving with him.

Congressman Matsui's legislative interests and accomplishments are legendary here in the House. Health care, welfare reform, tax issues, the environment, immigrant issues, and of course Social Security are just a few of the issues that Bob made his own.

Bob was only 6 months old when, just months after the attack on Pearl Harbor, he and his family were interned at Tule Lake camp in California. His childhood experience in the internment camp shaped his future actions on behalf of those fighting for fairness. Bob understood the injustice of the internment and sympathized with other loyal Americans who suffered at the hands of the government in which they never lost faith.

He embraced his heritage and channeled his energy into making positive changes for all Americans. From the time he worked as a member of the Sacramento City Council to serving as the vice mayor of Sacramento and finally as a U.S. Representative starting in 1978, Bob Matsui served as a constant reminder of what integrity and dedication can accomplish in public office.

□ 1100

Bob Matsui should ultimately be remembered for his civility, his dignity and his service to others. He was a selfless role model whose footprint will forever be imprinted on our Nation's history.

Bob Matsui was intelligent and principled. As a skilled, respected politician and willing to reach across the aisle, his voice elevated any debate. His leadership style and his character served as a model for all of us.

It is certainly fitting that the House honor his exceptional life, his public service with this very appropriate courthouse designation. I thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. THOMPSON) for bringing up this measure in such an expeditious manner.

Again, I strongly support H.R. 778 and urge my colleagues to join me in support of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. SHUSTER. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Madam Speaker, I appreciate the gentleman yielding me time.

I just wanted to come and pay tribute to this legislation and speak in favor of this tribute to Bob Matsui, and it is very fitting legislation to designate this courthouse.

I wanted to speak personally as a member of the Committee on Ways and Means, as a younger member of the Committee on Ways and Means, who had the opportunity to serve with Bob Matsui for 4 years. I have not served with Bob for the decades that many have in the past, but the Bob Matsui that I got to know in the Committee on Ways and Means was a very special man and person.

Bob Matsui was intellectually on the top of his game and was one of the best intellectual debaters and sparring partners we had, especially when it came to the issue of Social Security.

My favorite kind of people in the world and in this body are those who are passionate about their beliefs, whether or not we agree on those beliefs, and Bob Matsui had a great lesson for those of us younger Members and it was that you can be as strong and tough in debate when the microphone's on, but when it is turned off, you can be good human beings to one another.

Bob Matsui was a very kind gentleman. I was half his age, about the age of his kids, and I always just felt that he gave me sort of a mentoring-kind of relationship and role. Because every time I had a conversation with Bob Matsui, he had this nice glint in his eye, and he was always a person offering a kind word of advice or a kind word of friendship. That is something that I do not think we have enough of in this institution. It is something that I thought was a great lesson on how to conduct yourself among your colleagues, especially across the aisle.

So I am really sad to see Bob leave us here, but I think this is an extremely fitting tribute. I wish that more of us conducted ourselves in the way that he did, and I just want to lend my word of support to this fine legislation for just an outstanding and fine man who taught us a lot on how we can be civil with one another.

Mr. HONDA. Mr. Speaker, I want to thank the gentleman for his kind words.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMPSON), my friend and colleague and the author.

(Mr. THOMPSON of California asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON of California. Mr. Speaker, we are here today to honor a colleague who honorably served in the House for 26 years, our good friend, the late Robert T. Matsui.

This bill to rename the U.S. courthouse in Sacramento after Bob is a small tribute to our friend who always rose above petty, partisan politics to do what was good and what was right for his district and for our country.

Bob provided more than a voice for those who could not speak for themselves. He provided monumental victories and results, not by being the loudest but by always being the smartest and the most informed person in any debate.

Bob's legacy of legislative victories directly improved the lives of millions of Americans spanning several generations. His victories included protection for single mothers with infants, stronger civil rights laws and protection of our Nation's most vulnerable seniors.

He also played a key role in crafting fiscal policy for the past 26 years, and before his very untimely death he was leading the effort to protect Social Security benefits for America's seniors.

Bob left an indelible mark on national policy, but he never forgot the needs of his district. His district and the greater Sacramento region were always his number one priority.

Today, we will vote to rename the U.S. courthouse in Sacramento after Bob Matsui. This courthouse is a symbol of Bob's commitment to his district. Here in Congress, he was able to secure \$142 million that was used and needed to build that courthouse.

The courthouse not only created 1,200 new jobs in the Sacramento area, but it was the anchor for redevelopment and revitalization of downtown Sacramento, California.

It is more than fitting that we name this important building in honor of a very important figure in our history and our friend, Bob Matsui. I urge everyone to cast a vote for this bill.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for the time.

I rise to recognize the life and work of Bob Matsui and to support this legis-

lation which will name the courthouse after him.

Bob was truly a remarkable individual, intellectually very smart but, more importantly, humanly, deeply in touch with the challenges that America has faced over his many years of service here. He focused on the fundamentals. Often they were not sexy, often they did not attract a great deal of attention in the press, but, for example, he spent many years working with me and others on trying to build the R&D tax credit into our Tax Code in a way that would recognize the dependence of American companies on invention to maintain their position in an intensely competitive global economy.

He understood the big issues and he understood the small steps that had to be taken for us to be successful in the macro arenas, whether the macro arena of economics, the macro arena of strengthening and supporting families struggling through difficult matters, the security of our retirees. On so many fronts, Bob Matsui was a thoughtful voice, profoundly in touch with the challenges our society faces today and over the many years of his long service.

I salute him and I thank the gentleman for bringing forward this legislation to name a courthouse after him in his home base.

Mr. HONDA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK), the dean of the delegation.

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

Mr. STARK. Mr. Speaker, I rise just to comment. My colleagues will hear a lot of people talking about our friend Bob Matsui and his legislative accomplishments. I want to remind everybody that his name on this Federal courthouse will remind people that it was 6099 that interned Japanese Americans in the 1940s in violation of what we then thought were human and civil rights. As we proceed to violate people's human and civil rights under the PATRIOT Act, I think it will be appropriate that the Matsui courthouse will be the place where, hopefully, these rights will be corrected and restored to the American citizens and residents who deserve them.

I think it is most fitting that this building is named for Robert Matsui.

Mr. SHUSTER. Mr. Speaker, we have no speakers at this time, and I continue to reserve the balance of my time.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RANGEL), my friend.

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

Mr. RANGEL. Mr. Speaker, I rise in support of this legislation, and I thank the gentleman from California (Mr. THOMPSON) and those others who thought about doing this for our friend Bob Matsui.

So often we read about outstanding Americans who make great contributions to the country, and yet some of us have never heard of them. So I feel indeed so privileged and so honored of having served with one of those people. Notwithstanding how his country treated him, he decided to make his country treat other people so much better.

Here is a person that served on the Committee on Ways and Means, which is a privilege to serve, but he enjoyed each and every minute of it. He was involved in every debate, whether it was fairness in taxes, Medicare, Social Security, providing assistance to those people who have less than most people in this country. His compassion was always mixed with a lot of humor, to make certain that people would take time out to listen to him when he was serious and at the same time to know that he was not a politician but was someone who was a patriot who loved this country.

I really think that he has set an example for so many people who have reasons to be bitter but certainly can make a better contribution to life as Bob Matsui has made to his country, to his Congress and to his family.

I thank God that I had the privilege to know and to be his friend.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I had the privilege of serving with Bob Matsui on the Subcommittee on Social Security, and it was a real privilege.

You always hope that we will send to Congress men and women of just great decency, who love their country, love their community, love their family so dearly and are willing to give back to all that and do it in such a good, positive way. That is what Bob Matsui stood for and still stands for in my mind.

There is a saying that you make a living by what you get; you make a life by what you give. By that measure, Bob Matsui had a very rich life because he gave back so much to this body. He gave back so much in his example to other Members like myself, and he truly gave back to his family and his Nation, and I consider it a privilege to have served with him.

Mr. HONDA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, Bob Matsui was a pillar of his beloved Sacramento. He was a pillar of the congressional community. So it is truly fitting that the courthouse in his beloved city be named after him.

I think today we should pause and ask what would be the best monument to Bob Matsui here in Washington, and I think it is clear and that is that we join together with his wife Doris, who is now a colleague, to try to carry out

his hopes, to fulfill his dream that everybody in this country counts, and when it comes to our work here, everybody should count equally.

So I am pleased to join with my colleagues and this is another moment of emotion. We very much remember Bob.

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

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I had the opportunity in Seattle to help bring about the renaming of a courthouse there for a man who won the Congressional Medal of Honor, a Japanese American. He served in the 422nd and died, and it is very fitting on the West Coast that we find another courthouse, and we put Bob Matsui's name up.

He was also a hero. He was a Congressional Medal of Honor winner in the civilian society because he stood for the principle that we are all in this together, and we are not going to let the past stand in our way of moving forward.

He was one who was reluctant to come forward on the whole issue of repayment to Japanese who suffered losses. He felt that once the war was over it was his job to help the community move forward and be one Nation, where we all stand together and look after everybody.

The monument to Bob Matsui will be what we do with the PATRIOT Act in this House in a few weeks. It will be a statement about whether we learned the message that guys like Bob Matsui tried to teach us.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

□ 1115

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to rise in support of H.R. 787, to designate the United States Courthouse located in Sacramento, California, as the Robert T. Matsui United States Courthouse.

It is so fitting and appropriate that we honor Bob Matsui. In spite of what the American Government did to him and his family, this good and decent man never lost faith in America. He loved America. He loved the people of his district. He was a wonderful human being. Every day he tried to do his best to bring America together, to create one America, one family, one House, the American House.

Mr. Speaker, with this legislation I think we are doing the right thing by honoring Bob Matsui.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I say to the gentlewoman from California (Ms. MATSUI), it gives me great pleasure to speak on the floor this morning with regard to Bob Matsui. As a former judge, I do not believe a better name could be placed upon a court-

house for someone who stood for justice and integrity and looking out for the little people.

I am pleased to have an opportunity to be here this morning to support the legislation, and I bring something no other Member has brought to the gentleman from California yet: my sister and her husband are moving to Sacramento and are building a house. I am bringing the gentlewoman two more votes, and I will introduce them to the gentlewoman when I have an opportunity.

Mr. HONDA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in support of this bill to name this courthouse the Robert Matsui Courthouse. I cannot think of anything more fitting, as others have said, the notion of a courthouse where justice is weighed and issued for a person who had injustice done to him and never lost his sense of right and justice. It would have been easy for Bob to be angry, but he always sought fairness both personally and professionally.

I think it is quite fitting and it has a sense of poetic justice that we are naming a courthouse for a gentleman who was not treated fairly at one time by his country, but who always sought fairness and justice and equality throughout his life. It is fitting to remember him this way, someone who will always be part of our family here; and I thank the gentlewoman from California (Ms. MATSUI) for allowing us to be part of his family.

Mr. HONDA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MATSUI), the wife of Bob Matsui.

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

Mr. Speaker, I would like to take this opportunity to thank, first of all, the gentleman from California (Mr. DOOLITTLE) and the gentleman from California (Mr. THOMPSON) for sponsoring this legislation. I know that Bob would have been so proud to know how much effort his two colleagues have put in to bring this bill to the floor to honor him.

This courthouse, which symbolizes equal justice for all, was a major accomplishment for Bob personally, but also for the city of Sacramento. It is such an appropriate way to honor him and his many years in public service, for the city he loved, Sacramento, and the country he absolutely adored.

I would also like to thank his other colleagues here, now my colleagues, for honoring him by speaking here today. I would like to thank all Members very much and on behalf of Brian, Amy, and my granddaughter, Anna, for this wonderful honor.

Mr. HONDA. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I thank the leadership for this opportunity to honor Bob Matsui, who sought to make this country a

more perfect place, and urge passage of the bill.

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

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

Mr. Speaker, it was an honor for me to manage this bill and to serve with Bob Matsui. I know my father and my entire family's thoughts and prayers go out to the Matsui family. As I said, he is a respected colleague, a fine gentleman, and this is a very fitting tribute. I urge my colleagues to support this bill.

Ms. ESHOO. Mr. Speaker, I'm pleased to rise today in support of H.R. 787 and to say a few words for our late colleague, the Honorable Robert T. Matsui. When Bob passed away on January 1, 2005, we lost a friend, his constituents lost their most ardent supporter and America, as a whole, lost a dedicated statesman.

Bob was well respected on both sides of the aisle. A brilliant man and an honest and fair politician, his leadership on the House Ways and Means Committee and his expertise and knowledge of Social Security will be sorely missed in the House for many years to come.

Naming the federal courthouse in Sacramento is a fitting tribute for a man who did so much for that city. A member of the Sacramento City Council, Vice-Mayor and eventual Representative of the city in Congress, Bob served the city of Sacramento in every capacity he could. In Congress, Bob's efforts in securing funding for Sacramento were crucial in the revitalization of that city. Among the projects he was responsible for were the expansion of the city's light rail public transit system, and the courthouse that will soon bear his name. Both projects were crucial in creating new jobs and opportunities for the people of Sacramento.

His passing is a great loss for all of us and I thank my colleagues on both sides of the aisle for their work in getting this legislation before the House so quickly, so that we can honor a man we all loved and respected. I urge all my colleagues to support this resolution.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 787, a bill to designate the new United States courthouse located at 501 I Street in Sacramento, California in honor of our friend, my dear and treasured friend and colleague, Congressman Bob Matsui.

Congressman Matsui's death this past January deprived this House of one of its most astute, most admired statesman. The headline in the "Sacramento Bee" newspaper said it well: "A Good and Decent Man." A lifelong Californian, Bob Matsui served the people of California's 5th District with dedication, commitment and compassion.

I was able to witness Bob Matsui's commitment to his constituents first hand when he and I worked together to address flood control issues for his beloved Sacramento area.

No other major metropolitan area faces as severe a flood risk as Sacramento. Congressman Matsui believed, as do I, that the capital city of the world's fifth largest economy deserved to know that it would not face severe threats from flooding.

Following the high flows of 1986, when the levees almost failed, Congressman Matsui worked tirelessly to improve flood protection.

He examined every option. He worked to forge agreement to complete a dam at Auburn, California. It was to be a multipurpose dam, then a dry dam, and then ultimately, no dam, but assurance of adequate water supply for up-country users represented by Congressman John Doolittle. Because of Bob Matsui's persistence, original thinking, flexibility and collegiality, we were able to develop a comprehensive proposal that strengthens levees, makes use of the existing Folsom Dam, and preserves the beautiful American River Canyon.

As this project comes to completion over the next few years, every Spring, when the snows melt and rains come, and the State Capitol in Sacramento stays dry, the people of California and the Nation will owe a debt of gratitude to Bob Matsui for his persistence and wisdom on behalf of flood control.

Flood control is just one example of Bob Matsui's dedication and effectiveness. There are countless other examples.

In his first congressional race in 1978, Congressman Matsui campaigned as an underdog who vowed to bring new statesmanship to public office. His campaign was enriched by literally hundreds of volunteers that helped him achieve victory. Bob Matsui did not disappoint his constituents. He brought not only statesmanship, but also dedication, competence, innovation, and integrity to public service.

Elected to 14 consecutive terms in the House, Bob Matsui rose through the ranks to be a member of the Leadership team. Under his quiet demeanor lay a man of keen intellect who was a trusted friend and a formidable competitor.

As a senior member of the Committee on Ways and Means, Congressman Matsui was substantially involved with all the complex policy issues placed before the Committee including international trade, health care, welfare reform, and tax issues.

Congressman Matsui helped create the Research and Development Tax Credit in 1981 to fuel innovation in the American economy. In 1986, he spearheaded efforts that resulted in extensive reform of the tax code. His work on the Earned Income Tax Credit helped extend the tax credit for working poor families.

Most recently, Congressman Matsui was preparing to lead the discussions regarding the future of social security and his desire to preserve social security for future generations. Bob Matsui truly understood the varied complexities of the social security program, and he was determined that any reform of social security would provide for its long-term solvency without compromising its fundamental purposes.

Bob Matsui was intellectually curious and honest. He was fair minded and even handed. His legacy is one of compassion, commitment to do the right thing, hard work, and wisdom.

Congressman Matsui is ably succeeded by his wife DORIS MATSUI. She has already done an admirable job of representing the people of California's 5th District and I am confident that she will continue to do so.

It is most fitting and proper that the career of this truly outstanding member be honored with the designation of the new courthouse in his hometown of Sacramento, California as the "Robert T. Matsui United States Courthouse." I urge the bill's passage.

Mr. THOMAS. Mr. Speaker, I rise today as a cosponsor of this legislation, which will

name the Federal courthouse in Sacramento after our former colleague and friend, the late Representative Bob Matsui.

As many of you know, we both arrived in Washington in 1979 as newly elected Congressmen from opposite ends of California's vast Central Valley. For more than 20 years, we worked together on issues of importance to California, such as securing funding to combat drug trafficking and to gain a better understanding of the challenges posed by California's air quality. Through these efforts, as well as through his work on the Committee on Ways and Means, I saw first-hand Bob's commitment to, and strong advocacy of, his principles and how he served his constituents with honor and distinction.

Naming a Federal courthouse, where our Nation's laws and constitution are used to dispense justice, is a fitting way to remember Bob. Notwithstanding his service as a Member of the U.S. Congress, he was one of the more than 120,000 persons of Japanese ancestry who, pursuant to Executive Order 9066, were forcibly removed from their homes by our government and detained during World War II. Undoubtedly, this experience had a profound impact upon his life and career.

Accordingly, I now ask my colleagues to pass this legislation in honor Bob's service to his constituents and Nation.

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

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 787.

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

The yeas and nays were ordered.

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

#### GENERAL LEAVE

Mr. SHUSTER. 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. 1463, H.R. 483 and H.R. 787, the matters just considered by the House.

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

There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 202 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 202

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 8) to make the repeal of the estate tax permanent. The bill shall be considered as read. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Pomeroy of North Dakota or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

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

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

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 202 is a structured rule providing for 1 hour of general debate on H.R. 8, a bill to make the repeal of the estate tax permanent, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered, by the gentleman from North Dakota (Mr. POMEROY) or his designee, which shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent.

Finally, Mr. Speaker, the rule waives all points of order against the amendment printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 8, a bill introduced by the gentleman from Missouri (Mr. HULSHOF), permanently repeals the death tax. I commend the gentleman from Missouri (Mr. HULSHOF) for championing an end to the death tax, as my former friend and colleague, Jennifer Dunn, did while serving in Congress. Through Jennifer's tireless efforts, in 2001 Congress acted in a bipartisan fashion to gradually phase out the death tax and fully eliminate it in 2010.

However, if Congress does not extend the death tax repeal beyond 2010, in 2011 small business owners and family farmers will once again be assessed the full death tax at the maximum 2001

rate. The death tax is a form of double taxation and is simply unfair.

The last thing families in central Washington and across the Nation should have to worry about when a loved one dies is losing the family farm or business in order to pay the Internal Revenue Service. But, sadly, that is the situation many hard-working families would face if the death tax is not permanently abolished.

With permanent elimination of this tax, farmers and business owners will have the sense of security they need to plan for the financial future of their businesses, farms, or families. Death taxes are an unfair assault on every American's potential life savings. Today, we have the opportunity to bury the death tax for good.

The Committee on Rules reported House Resolution 202 by a voice vote. Accordingly, I encourage my colleagues to support both the rule and the underlying bill.

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

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

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

Mr. MCGOVERN. Mr. Speaker, for years the Republican leadership has misled the American public about the estate tax. Today, because of that deceptive campaign, millions of Americans seem to believe they will be subject to the so-called death tax. They have been lied to.

Facts are stubborn things, and the facts prove that the Republican leadership is once again trying to pass a bill that helps the very wealthy few at the expense of everyone else.

The truth is that the overwhelming majority of American families, 99.7 percent, are not subject to estate taxes. Let me repeat: 99.7 percent of American families are not subject to estate taxes.

The truth is that this is the wrong bill at the wrong time that helps the wrong people, and it should be defeated. This permanent repeal of the estate tax does not help the average American. Instead, it benefits the heirs of the wealthy. Paris Hilton is doing just fine. She does not need another tax cut by the Republicans.

My colleague, the gentleman from Washington (Mr. HASTINGS), will claim that this bill will help family farmers and small business owners pass their assets, their farms and businesses, on to their children. The reality is that most of these family farmers and small business owners are already exempt from the estate tax.

Further, as The Washington Post pointed out today, permanently repealing the estate tax may actually hurt more family farmers and small businesses than it would help because of the cumbersome new reporting requirements and changes in how assets are valued.

Let us look at the facts. Exempting estates up to \$1 million, the original

level before the 2001 Bush tax cut, leaves only the top 2 percent of the estates in the country. But current law goes well beyond the \$1 million exemption; and to hide the real cost of their bad economic policies, the Republican leadership included a provision that sunsets the 2001 tax cut in 2011.

Mr. Speaker, for most of the 20th century, this country operated on a progressive taxation system. Those who could afford it paid their fair share. We looked out for each other. We provided food to the hungry, shelter to the homeless, assistance to the unemployed, and health care to the sick.

But the Republican leadership wants to turn that system upside down. They believe the wealthy should be exempt from paying taxes and the poor should fend for themselves. It is wrong, and we have to stop it.

Let me connect the dots for my Republican friends. They say there is a deficit and we need to tighten our belts to pay down the debt. Of course this debt is of their creation. President Bush came into his first term with a surplus and ended his second term with the largest deficit in the history of the United States of America, and now they bring forward another tax cut that costs \$290 billion according to the Joint Committee on Taxation.

□ 1130

Some private groups estimate that this bill will ultimately cost closer to \$1 trillion.

Where is that money going to come from? It is a credit card bill that they are passing on to our children and our grandchildren. That is the actual estate tax. That is the real legacy they are leaving to future generations.

Mr. Speaker, we are at war, but the only people being asked to sacrifice are those who can least afford it. The wealthiest of the wealthy are getting a free ride at this very difficult time in our history.

Look at the budget resolution. The Republican leadership pushed the budget resolution through earlier this month. What do they do? They cut food stamps. They cut Medicaid. They cut education programs. They cut environmental protection. They cut community development block grants. They cut school breakfasts and school lunches. Why? All so a few people can inherit a few more billion dollars tax free from their relatives.

Our colleague from North Dakota (Mr. POMEROY) will offer an amendment that will set the exemption for estates at \$3 million for individuals and \$7 million for couples. This would cost dramatically less than the Republican bill, \$72 billion compared to \$290 billion, and it would exempt 99.7 percent of all estates from ever facing the estate tax. This is a commonsense compromise that should receive near unanimous support.

Mr. Speaker, the truth is out there, but the Republican leadership is too stubborn and too arrogant to face it.

We are at war. Health care costs are spiraling out of control. Poverty in America is increasing. More Americans go to bed hungry at night. Our children are falling behind in math and science. I, for one, do not believe the answer to these challenges is a permanent repeal of the estate tax.

I urge my colleagues to do the right thing and defeat this bill.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), a valuable member of the Committee on Rules.

Mrs. CAPITO. I thank the gentleman from Washington for yielding me this time.

Mr. Speaker, I rise today in strong support of the rule and the underlying legislation. I am proud to be a cosponsor of H.R. 8 and thank the gentleman from Missouri for his leadership in offering this bill.

I was proud to be in this Chamber 4 years ago on the day Congress began phasing out the death tax. As a result, thousands of jobs were saved and second and third generations were able to take charge of their family's business. We knew when we passed that law the phaseout was not a permanent fix. Today we have the opportunity to complete unfinished business. If we do not act now to permanently eliminate the death tax, it will be revived at the stroke of midnight on January 1, 2011. Bringing back the death tax will drive the final nail in the coffin for America's next generation of small business owners.

The Death Tax Repeal Permanency Act represents the changes to our Tax Code called for by our Nation's farmers and small business owners who want to pass their family business on to the next generation. Small business owners and farmers devote their time, energy and money into building a business so it can be passed on to their sons or daughters. In the absence of the death tax, these small businesses become a legacy for one generation to pass on to the next. With the death tax, families face a whopping tax bill on the property and assets even though taxes have already been paid annually by the owners.

The death tax is an overwhelming burden, forcing many families to sell their businesses just to pay the 37 to 55 percent tax. As a result, jobs are lost and generations of family toil are plundered by the government.

Permanently repealing the death tax will help small businesses create new jobs. A 2002 study showed that an extra 100,000 jobs a year would be created if the death tax were permanently repealed. The Wall Street Journal wrote in 1999 that 60 percent of small businesses would add jobs if death taxes were not on the books.

The very threat of a revived death tax has a negative impact on small business. Even with the temporary

phaseout, business owners must continue to plan for paying that tax. To help owners hire new workers and continue to invest in their business, they need to know that the death tax is gone for good.

We must not allow this small business killer to rise from the dead. The House today has an opportunity to rid the Nation of this tax that kicks families when they are down, takes away a lifetime of hard work, and stifles job growth. I hope that my colleagues will join me today in supporting the rule and the underlying legislation.

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

We hear the phrase "death tax," which really is kind of a misnomer. There is no such thing. When I am dead, I am dead. You cannot collect any taxes from me. The issue is whether or not estates in the billions of dollars should be subject to any taxation. We are not talking about small family farms or small businesses. That is not what this is about. If you read the Washington Post today, it is very clear what this is about. It is about the most extremely wealthy companies, the most extremely wealthy people in this country.

The gentleman from North Dakota has a substitute that would basically exempt 99.7 percent of all estates from any estate tax. So let us be clear about what is going on, and let us also be clear about the cost to our kids. The Joint Committee on Taxation says that this is going to cost up to \$290 billion. There seems to be no concern on the other side of the aisle about what this does to our deficit or our debt. This is not paid for. They make no attempt to pay for it.

Let me just remind my colleagues that the debt that we are faced with right now is close to \$8 trillion, and the interest on that debt is astonishingly high. That is the legacy that they are passing on to our kids.

Our good colleague from Tennessee (Mr. TANNER) in a presentation, I thought, said it best. He said, so people can understand what the debt means, if you stack up one thousand dollar bills, a million dollars would be about a foot high; a billion dollars would be about the size of the Empire State Building; a trillion dollars would be 1,000 Empire State Buildings. Our debt is close to \$8 trillion, and there is no outrage on the other side, there is no concern about what we are doing and what it means to our economy by making these tax cuts permanent.

I think that people need to understand what is going on here. This is not about small family farms. It is not about small businesses. This is about helping the wealthiest of the wealthy.

Mr. Speaker, I yield 6 minutes to the gentleman from North Dakota (Mr. POMEROY).

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

Mr. Speaker, this rule brings an important debate to the floor. Let me tell

you what is not on the floor. What is not being debated is whether there should be additional estate tax relief. We agree there should be. Much has been accomplished over the last few years in that regard. The estate tax level attached at \$600,000 per individual at the beginning of this decade. So that, as my colleague from West Virginia talks about the concern of estate tax on small businesses and farms, that may have been more the case at that time. Certainly it is less the case now. The estate tax level attaches at \$1.5 million per individual, \$3 million per couple, and obviously the number of estates that would have tax consequences has fallen significantly.

Is it enough? No. Let us do something quite dramatic. The proposal that I am offering as a substitute would double from where we are today and in a very certain and immediate way bring to \$6 million the estate tax exclusion for couples. Couples across this country possessing less than \$6 million in assets, no estate tax. Nothing. Gone. Immediately and certainly. By the end of the decade, it moves to \$7 million. By 2009, there could be \$7 million in a couple's estate.

Is this meaningful? You bet it is meaningful. You look at the numbers, and it will tell you that we all but make this problem go away. Looking across this country, 99.7 percent of estates in this country no longer have estate tax issues under the substitute that I am advancing. That is 997 out of 1,000. That is pretty significant.

There are a couple of other differences. It is one-quarter of the cost of the majority proposal, \$290 billion, that they are talking about. There are things they are saying that just are not so, that small businesses and family farms have major estate tax issues when the level is \$6 million per couple. They do not.

I represent family farms and small businesses all across the State of North Dakota. I am telling you, if we set this level at \$6 million per couple, to move to \$7 million by the end of the decade, we largely take care of the problem.

But beyond that, going forward, there is yet another very important wrinkle in the majority proposal. This is the capital gains tax that their proposal would add. It is unlike a tax relief bill that I have seen before, because, for everyone it helps, it adds capital gains taxes for many more. Right now in the handling of an estate, there is no capital gains tax. Under their proposal, they establish something called the carryover basis. Not to get technical with you, but what that does is impose capital gains tax exposure on estates. The way the numbers work out, more estates are going to end up with capital gains consequences than get relief from estate taxes. So you help a few; you harm a lot. It does not make much sense to me. Again, at a total budget cost of \$290 billion over the first 10 years and more than \$800 billion over the second 10 years.

This is a budget buster, my friends. At a time when we are talking about how we address the long-term solvency of Social Security, to just, without a concern, pass a \$290 billion bill to help three-tenths of 1 percent of the most affluent in this country seems to be standing priorities directly on their head. The very people that favor privatizing Social Security, which is going to add risk in the Social Security benefit, which is going to reduce benefits sharply because they change the inflation index going forward, that is going to reduce the benefits on our children and grandchildren, want to now run up the debt on our children and grandchildren in order to help that three-tenths of 1 percent, the very wealthiest among us. What kind of sense is that?

So we have proposed something quite different, immediate and certain estate tax relief, \$6 million per couple, \$3 million per individual, right now, and in 2009, \$7 million per couple, \$3.5 million per individual. And, once more, a proposal that I think we would want to consider closely, we could take the difference between the majority bill and our bill and dedicate it to the Social Security trust fund.

There is a lot of talk from the other side: Where's your plan? Where's your plan? How about this one? Let us start by addressing the problem and making a good deal of it go away.

If we took the difference, the amount of estate tax revenue over the \$7 billion figure at the end of the decade, and dedicated it to the Social Security trust fund, we could fill 40 percent of the hole over 75 years, almost make half the problem go away, while preserving benefits, while keeping the inflation adjustment that our grandchildren need.

I think in the consequence of our floor discussions today it is important to talk about both concepts, the immediate and certain estate tax relief alternative that we are advancing and what we could do with the difference. They say this estate tax has to be repealed, that it is the most unfair thing in the world. I can think of something even more unfair, and that is cutting the benefits of Social Security to our children and grandchildren. That is more unfair in my opinion.

We do not have to make that trade-off. We can make estate tax go away for 99.7 percent of the people in this country, take the balance between the bills, invest it in the Social Security trust fund and deal with almost half of the problem of the underfunding over the next 75 years.

That is what the minority is bringing forward today. It is a thoroughly considered and balanced alternative, I believe a reasonable and responsible alternative, and I urge the Members' consideration.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I rise in support of this rule and the bill authored by the gentleman from Missouri (Mr. HULSHOF) and commend him for his great work on behalf of America's job creators.

I just heard the Democratic Member say that only a tiny fraction of the people who die in America and their families have to pay this death tax. Apparently, the gentleman has never had to go through the dreaded form 706. How many of us right now are trying to deal with form 1040? Even though we deal with it year in and year out, we still cannot figure it out. What we are trying to get rid of is the complexity of the Tax Code and the \$20 billion a year that the death tax consumes from the American economy that does not go to the Treasury but, rather, goes to tax lawyers and accountants and life insurance sales and keyman policies and so on, all of this estate planning which is economic waste. It is hurting our economy.

Eighty-eight pages of the Internal Revenue Code, 88 pages of law, are devoted to trying to close the loopholes that have erupted over the 20th century as our experiment with the death tax has shown that it actually costs the government and costs the American people money to maintain it. Much as we would like to be able to tax the super-rich, they get out of the tax with trusts and loopholes and so on, as will the rich after we do what the Democrats want, which is to create some complicated new definitions to try and cabin off this tax so it only affects a few people. The only people who will actually be hurt by the burden of these new complex rules and laws will be people who we do not want to pay the tax in the first place.

□ 1145

If at the time that one of one's loved ones dies, just to file the return, not pay the tax, they are going to have to plow through all of these helpful instructions that are in such small print that even a high school student might need reading glasses to get through some of these 40 pages. But here is the kind of helpful thing one will find when a loved one dies: "Generally, you may list on Schedule M all property interests that pass from the decedent to the surviving spouse and are included in the gross estate. However, you should not list any 'nondeductible terminable interests,' described below, on Schedule M unless you are making a QTIP election. The property for which you make this election must be included on Schedule M. See 'qualified terminable interest property' on the following page.

"For the rules on common disaster and survival for a limited period, see section 2056(b)(3)."

This is just one little paragraph out of 40 pages of this. They are going to have to hire a lawyer. They are going

to have to hire an accountant to go through all this and list everything that their family member has accumulated throughout his or her entire life just to prove that they do not owe this tax. Anybody who is slogging through their form 1040 trying to file their income tax return now knows what I am talking about.

We are trying to eliminate the complexity of this law which hurts every single person who works for a small business in America. When that small business is liquidated in order to pay the death tax because it is a tax on property of small businesses, people lose their jobs, and that is where the burden and the incidence of this tax falls.

Repealing the death tax once and for all is the right thing to do, and I am very pleased that this rule will bring that to the floor.

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

Let me again remind people that we are talking about three-tenths of 1 percent who actually pay an estate tax. In that category we are not talking about family farms or small businesses. We are talking about Paris Hilton, and I would say to my colleague from California that I think she has enough accountants and lawyers to be able to fill out form 706.

Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, this is actually one of the more absurd debates that I have ever heard in my life, and I think anybody who turns on the television and wonders what is going on here in Congress will then conclude that the reason that this institution is held in so low regard is because we have debates like this.

Let us look at what is going on in America today. The middle class is shrinking. Study after study shows that real wages for American workers are going down; and in the last 4 years, 4 million more Americans have entered the ranks of poverty. While the middle class shrinks, poverty increases. The richest people in America have never had it so good. CEOs of large corporations now make 500 times what their workers make. In America today we have the most unfair distribution of wealth and income in the history of our country and of any major country on Earth.

So what are we discussing here today? Are we going to raise the minimum wage to a living wage? Are we really going to protect family farmers from low prices? Are we going to stop the hemorrhaging of decent-paying jobs going to China? Do not be silly. We do not talk about that because corporate America does not fund those concerns.

The richest people in America said several years ago, Hey, yes, we are worth billions of dollars. That is not

enough. We are going to contribute money to our Republican friends, and do you know what they are going to do? They are going to lower our taxes even more.

Mr. Speaker, we are here debating an issue that has zero impact on 98 percent of the American people. Nobody in the middle class, nobody in the working class, no low-income person pays one penny in the estate tax. All of the estate tax is paid by the wealthiest 2 percent. If their proposal passes, half of the benefits go to the richest one-tenth of 1 percent.

I want to ask my friends a question. This is a question. As my colleagues know, President Bush and the Republican leadership are supporting increased fees on our veterans. They are raising prescription drug fees for our veterans, and they want to charge a \$250 co-pay for veterans of wars who enter the VA hospital. I would like to ask my Republican friends do they think it is a good idea to give tax breaks today to billionaires and to charge veterans significantly increased fees for health care. That is my question.

I am listening. I am listening. I do not hear an answer.

That is the answer. They are substantially increasing health care costs for veterans who have put their lives on the line defending this country. They are increasing our deficit, increasing our national debt, all on behalf of the richest people in this country. This bill is bought and paid for by millionaires and billionaires, and anyone who votes for it should be ashamed of themselves.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me this time.

Mr. Speaker, I rise today in support of this rule and H.R. 8. I applaud the efforts of the leadership and the gentleman from Missouri in bringing forward H.R. 8 to finally bury the death tax once and for all.

One thing I have learned in the short time I have sat here is that the Democrats really look at the person whom this bill would affect, and, by the way, I do not think any of them are watching this on TV right now because they are all probably at work, but they are

looking at the person whom this bill would affect as someone who got up early, worked hard all his life, looked after his family, built infrastructure, saved money, put capital back into this system, provided jobs, benefits, health care for people, and the Democrats look at this individual as a gift who keeps on giving.

One of the things our country needs is individuals who are willing to work hard and save their money. It is the basis of our economy and the American Dream. This country is a wonderful land of opportunity. Anyone can work hard and be whatever they want to be in this country. Yet our tax system directly discourages savings by limiting contributions to IRAs and taxing dividends. When one works hard and saves, they should be rewarded, not punished. The current death tax punishes people for saving their own money, for fulfilling the American Dream.

Tax cuts do not cost the U.S. Government money. This is something that I think is misunderstood up here. Cutting taxes does not cost the government money. It allows people who earn that money to keep more of it in their pocket. This Congress must recognize that tax cuts spur economic growth. We have seen this in the Reagan tax cuts that led to the boom of the 1990s and in this President's tax cuts that have brought us out of the recession that this country experienced after 9/11.

As a small business owner, I know firsthand how hard one has to work to build a business. And most times the assets of a family business are not in cash, or easily so. When a family business is hit with an estate tax, it often requires the selling of a large amount of inventory or other assets in order to pay the debt. That is not right. That hurts families who want to continue the legacy of their loved ones who have passed away. Why do we want to harm or punish or exploit those who work their hardest to create an inheritance for their loved ones?

The death tax has made crooks out of honest people because they have to search for all kinds of ways to avoid paying the tax. And the reason they do not want to pay this tax is because they hate to see everything that someone that they loved and deeply cared about who spent their whole life building is taken away by the government.

Small businesses should not be run while looking over one's shoulder to make sure the tax man is not about to get them. Small business owners must be able to focus on their business. More than 70 percent of small family businesses do not last beyond the second generation, and the estate tax plays a large part in that. Having someone pay half of their assets to the government is absolutely wrong no matter what is being paid. We all know that people can manage their own money much better than the government.

One of the things I hate more than anything is a double tax. When the

government takes its bite out of the apple, it should not get a second bite. Yet the death tax takes an even bigger bite out of the money that has already been taxed. Economic studies have shown that the cost of trying to comply or avoid the death tax consumes as much out of the economy as is generated by the death tax itself.

The death tax also hits those who cannot afford a lawyer or a CPA to help them. If their assets are not in cash, as in most family businesses they are not, they have to make a huge burden and sacrifice that they are not ready for by having to get somebody else to advise them about how to take care of their families and their children. And in spite of all this, the death tax does not even generate that much revenue or "windfall profit" for the government, yes, a "windfall profit" for the government, while placing this huge burden on the families of this country. It is not right.

The idea of the tax coming back in 2011 is amazing. It just does not make sense, and people cannot make any long-term financial plans. Getting rid of the death tax will simplify our Nation's laws and ease the burden on our country. If it takes a CPA or a lawyer to figure out what one is trying to do and what burdens the government has put on them, then it is too much of a burden. We need to do everything we can to lessen that burden. Repealing the death tax is the right thing to do.

Although I was not in Congress when the phase-out of the death tax began, I am thrilled to be here today to cosponsor and vote for it to be completely eliminated. And I urge all of my colleagues to do the same.

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

Let me just make a couple of points here. This is not about protecting small businesses or family farms. I mean, I think that is clear to everybody here. This is about protecting the three-tenths of the 1 percent wealthiest people in this country.

I enter into the RECORD an article that appeared in today's Washington Post that really kind of explains what this debate is all about, about how Mars candy, Gallo wine, and Campbell soup fortunes have been lobbying for the complete repeal of the estate tax for some time so they can end all taxation on their inheritance. That is what this is about. This is not about working families. This is not small family farms or small businesses. This is about protecting the richest of the rich.

[From the Washington Post, April 13, 2005]

EROSION OF ESTATE TAX IS A SESSION IN POLITICS

(By Jonathan Weisman)

In 1992, when heirs to the Mars Inc. fortune joined a few other wealthy families to hire the law firm Patton Boggs LLP to lobby for estate tax repeal, the joke on K Street was that few Washington sightseers had paid so much for a fruitless tour of the Capitol.

Today, the House is expected to vote to permanently repeal the estate tax, moving

the Mars candy, Gallo wine and Campbell soup fortunes one step closer to a goal that once seemed quixotic at best: ending all taxation on inheritances.

"I think this train has an awful lot of momentum," said Yale University law professor Michael J. Graetz, a former senior official in the Treasury Department of President George H.W. Bush.

Last month, Graetz and Yale political scientist Ian Shapiro published "Death By A Thousand Cuts," chronicling the estate tax repeal movement as "a mystery about politics and persuasion."

"For almost a century, the estate tax affected only the richest 1 or 2 percent of citizens, encouraged charity, and placed no burden on the vast majority of Americans," they wrote. "A law that constituted the blandest kind of common sense for most of the twentieth century was transformed, in the space of little more than a decade, into the supposed enemy of hardworking citizens all over this country."

The secret of the repeal movement's success has been its appeal to principle over economics. While repeal opponents bellowed that only the richest of the rich would ever pay the estate tax, proponents appealed to Americans' sense of fairness, that individuals have the natural right to pass on their wealth to their children.

The most recent Internal Revenue Service data back opponents' claims. In 2001, out of 2,363,100 total adult deaths, only 49,911—2.1 percent—had estates large enough to be hit by the estate tax. That was down from 2.3 percent in 1999. The value of the taxed estates in 2001 averaged nearly \$2.7 million.

Congressional action since 2001 will likely bring down the number of taxable estates still further. President Bush's 10-year, \$1.35 trillion tax cut in 2001 began a decade-long phase-out of the estate tax. The portion of an estate exempted from taxation was raised from \$675,000 in 2001 to \$1.5 million in 2004. Next year, the exemption will rise to \$2 million for individuals and \$4 million for couples.

The impact has been clear, tax policy analysts say. The number of estates filing tax return is falling sharply, from 123,600 in 2000 to an expected 63,800 this year. And only a small fraction of those will actually be taxed.

Under the 2001 legislation, however, all of the tax cuts, including the estate tax's repeal, would be rescinded in 2011. The vote today is the first to address the sunset provisions.

House Democrats, led by Rep. Earl Pomeroy (D-N.D.), today will propose permanently raising the exclusion to \$3.5 million—\$7 million for couples. That would be enough to exempt 99.7 percent of all estates. The Pomeroy bill would cost the Treasury \$72 billion over 10 years, compared with the \$290 billion price tag of a full repeal through 2015, according to the Joint Committee on Taxation.

"The ideological fervor that is admittedly still pretty strong in some quarters is now being tempered by the runaway debt that is weighing down this country," said Pomeroy, who thinks voters are ready for a compromise.

Indeed, Senate Majority Leader Bill Frist (R-Tenn.) has asked Sen. Jon Kyl (R-Ariz.), a repeal proponent, to find a compromise that could win a filibuster-proof 60 votes in the Senate this year, even if it falls short of full repeal.

A compromise that includes any estate tax, no matter how small, may fail if the fervent repeal coalition holds firm, Graetz said. Repeal opponents have been unable to whip up big support, he said, because they never made the emotional case that the American



belief in equal opportunity runs counter to the existence of an aristocracy born to inherited riches. Paris Hilton, who inherited her wealth, and now famously enjoys spending it, could have been their counter to the small-business owners and family farmers whom repeal proponents held up as the victims of the tax.

"The public doesn't believe people should be taxed at the time of death, whether they are paupers or billionaires," said Frank Luntz, a Republican pollster who has been working on estate tax repeal for a decade. "Compromise is very difficult because the public doesn't want it to exist."

It is that sentiment that the fledgling repeal forces tapped into when they mobilized more than a decade ago. A little-known Southern California estate planner named Patricia Soldano launched her repeal effort with the backing of about 50 wealthy clients, with the Gallo and Mars families leading the way. Other contributors included the heirs of the Campbell soup and Krystal hamburger fortunes. Frank Blethen, whose family controls the Seattle Times Co., was also pivotal.

The effort caught fire when small-business groups such as the National Federation of Independent Business and agriculture groups led by the National Cattlemen's Beef Association joined in.

By 1994, Newt Gingrich's Republican insurgents had latched onto the estate tax issue, but the Contract With America called for an estate tax reduction, not repeal. In 1995, Luntz poll-tested the term "death tax" and advised the new GOP majority to never use the terms "inheritance" or "estate tax" again.

By then, Soldano's Policy and Taxation Group was spending more than \$250,000 a year on lobbying. A parade of small-business owners and family farmers appealed to their congressmen, worried that they could not pass on their enterprises to their children, even though most of them would not be affected by the tax.

"There's been a sustained, determined campaign of misinformation that in the end has left the American people with a very different notion of what the estate tax is and does than actually exists," Pomeroy said.

But ultimately, whether people believe the estate tax will affect them has little bearing on support for repeal. Early this year, with Soldano's money, Luntz again began polling, this time in the face of record budget deficits and lingering economic unease. More than 80 percent called the taxation of inheritances "extreme." About 64 percent said they favored "death tax" repeal. Support fell to a still-strong 56 percent when asked whether they favored repeal, even if it temporarily boosted the budget deficit.

Democrats "still don't get it," Graetz said. "The politics are still very powerful."

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. PUTNAM), a powerful member of the Committee on Rules.

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

I am proud to be a part of the Committee on Rules, which reported out a very balanced rule that allows both sides to be heard on this issue.

The interesting thing about this issue is that there is agreement that the death tax should go away. There is disagreement about the numbers and the number of people for whom it

should go away, our side believing that it should be totally repealed, the other side believing that there are a certain number of people who should be exempt from paying this. It is good to see that we have finally come together to recognize that the death tax is a killer for small businesses and family farms and ranches. I am glad that that is a bipartisan agreement, and I am glad that this rule reflects that.

A wise man once joked that there is always death and taxes, but death does not get worse every year.

With the death tax in place, that is not true. Each year that passes, many family-owned farms and businesses are subject to this tax. It is fundamentally unfair that death is a taxable event. Taxes have already been paid on the assets subject to the taxation under the death tax during the lifetime of the owners. It amounts to a second bite of the apple for the government.

With the repeal of the tax, more small businesses and farms will stay in the hands of those families. Currently, the death tax is a leading cause of dissolution. And we see this all the time in agriculture, that when the grandparents die they have to sell off a portion of the land so that the government gets their share so that they break up the very asset that made that farm what it was. They eliminate the opportunity for that next generation to participate even though they worked on it themselves, growing up, paying their way through school, helping to support all of the family efforts. That is a great cause of the loss of rural communities and small-time agriculture in this country, and I think that we can all agree that that is a shameful loss to our Nation. They form the backbone of our rural heritage.

The death tax is a virtue tax in the sense that it penalizes work, penalizes savings and thrift in favor of large-scale consumption.

□ 1200

In other words, if those same families had sold off everything and spent it, then they would not be subject to the death tax. But the fact that they made a decision to hold something, to build it, to grow it so that their children and grandchildren might have a farm to continue to cultivate the bread basket for the world in, then they are taxed. Where is the fairness in that?

Mr. Speaker, 87 percent of family businesses do not make it to the third generation. Unquestionably, the death tax plays a tremendous part in that statistic. This is especially true of businesses that are land-rich and cash-poor. That is what we call it in the South, Mr. Speaker, where you have all of your assets tied up in things. You cannot afford a brand-new car, you cannot afford a brand-new tractor, you cannot afford all the nicer things; but yet on paper you are quite wealthy, because you purchased land, you gave value to that land as time passes.

Mr. Speaker, I urge that we adopt the rule and continue forward with the repeal of this scurrilous tax on death.

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

I appreciate the words from my colleague on the Committee on Rules, the gentleman from Florida; but quite frankly, I do not know what he is talking about. The small businesses and the family farms, we are all in agreement that they need to be protected. That is not what the debate is about here today.

The debate is about whether three-tenths of 1 percent of higher income-earners in this country deserve additional tax relief at a time when they are cutting Medicaid, veterans benefits, when they are dipping into the Social Security trust fund.

This is not a death tax. What they are talking about is a debt tax, D-E-B-T, adding to the deficits and the debt of this country. Right now, this year, we are paying \$177 billion this year in interest on the debt. Next year it will be \$213 billion. It is ridiculous. We need to rein in some of these extravagant tax cuts for the wealthy so that we can get our fiscal house in order here in this country, so we can start taking care of Social Security in the long term, so we do not have to cut veterans benefits or educational benefits or environmental protection.

Mr. Speaker, I at this time I will enter into the RECORD an article by E.J. Dionne entitled "The Paris Hilton Tax Cut."

[From the Washington Post, Apr. 12, 2005]

#### THE PARIS HILTON TAX CUT

(By E. J. Dionne Jr.)

The same debate who insist that critics of Social Security privatization should offer reform proposals of their own are working feverishly to eliminate alternatives that might reduce the need for benefit cuts or payroll tax increases.

I refer to the fact that House Republican leaders have scheduled a vote this week to abolish the estate tax permanently. Under a wacky provision of the 2001 tax cut designed to disguise the law's full cost, Congress voted to make the estate tax go away in 2010, but come back in full force in 2011.

With so many other taxes around, it's hard to understand why this is the one Congress would repeal. It falls, in effect, on the heirs to the wealthiest Americans. Fewer than 1 percent of the people who died in 2004 paid an estate tax, and half the revenue from the tax came from estates valued at \$10 million or more.

Yet, because the wealthy have gotten wealthier over the past three decades or so, the estate tax produces a lot of money. Counting both revenue losses and added interest costs, complete repeal of the estate tax would cost the government close to \$1 trillion between 2012 and 2021, according to the Center on Budget and Policy Priorities.

And that is where Social Security comes in. You can reject outlandish claims that Social Security faces some sort of "crisis" and still acknowledge that it faces a gap in funding for the long haul. The estate tax should be part of the solution.

In a little-noticed estimate confirmed by his office yesterday, Stephen Goss, the highly respected Social Security actuary, has studied how much of the Social Security financing gap could be filled by a reformed estate tax. What would happen if, instead of repealing the tax, Congress left it in place at a

45 percent rate, and only on fortunes that exceeded \$3.5 million—which would be \$7 million for couples? That, by the way, is well below where the estate tax stood when President Bush took office and would eliminate more than 99 percent of estates from the tax. It reflects the substantial reduction that would take effect in 2009 under Bush's tax plan.

According to Goss, a tax at that level would cover one-quarter of the 75-year Social Security shortfall. The Congressional Budget Office has a more modest estimate of the shortfall. Applying Goss's numbers means that if CBO is right, the reformed estate tax would cover one-half of the Social Security shortfall.

This is big news for the Social Security debate. Michael J. Graetz and Ian Shapiro, authors of a new book on the estate tax, "Death by a Thousand Cuts," have referred to its repeal as the "Paris Hilton Benefit Act." To pick up on the metaphor, why should Congress be more concerned about protecting Paris Hilton's inheritance than grandma's Social Security check? How can a member of Congress even think about raising payroll taxes while throwing away so much other revenue?

This also means that Democrats now talking about reaching a "compromise" with the Republicans on the estate tax should put the discussions on hold until the Social Security debate plays itself out. Most of the "compromises" being discussed would repeal 80 to 90 percent of the estate tax. At some point, it might be reasonable to agree to make the 2009 estate tax levels permanent. But if they agree to any steps beyond that, Democrats will, once again, be placing the concerns of wealthy donors over the interests of the people who actually vote for them.

The Friends of Paris Hilton realize that as federal deficits mount and rising Medicare costs loom, the case for the total repeal of the estate tax grows steadily weaker. That's why they're hoping they can sucker defenders of estate taxes into a so-called compromise that gives away the store—the store, in this case, going to Neiman-Marcus shoppers, not to those who rely on Target.

This is an instructive moment. What we are having is not a real debate on the future of Social Security but a sham discussion in which the one issue that matters to the governing majority is how to keep cutting taxes on the wealthiest people in our country.

Those who vote to repeal the estate tax this week will be sending a clear message: They see the "crisis" in Social Security as serious enough to justify benefit cuts and private accounts. But it's not serious enough to warrant a minor inconvenience to those who plan to live on their parents' wealth.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I want to rise in support of the rule that will allow us to consider the permanent repeal of the death tax.

Mr. Speaker, I think it is so appropriate, so very appropriate that this week, as millions of American taxpayers are finalizing their Federal income tax filings that we are looking at what is one of the most egregious taxes and most unfair taxes to our small business community. I am one of those that fully believes that the death tax is the triple tax, because Americans pay tax when they earn their income. Then

they turn around, they buy an asset, and they spend their money, and they are paying a tax on every bit of that. And then, when an American dies, they have to pay the tax again.

This tax affects every American, especially our small business owners. I have found it very curious that some of my colleagues across the aisle continue to say it only affects the rich. Well, in my district, do my colleagues know that it affects thousands of farmers, thousands of small business owners who are very upset about the death tax?

Families everywhere would benefit from the repeal of this tax. When 70 percent of family businesses do not make it to the second generation, there is a problem; and we know we can fix part of that problem, because it is the death tax. For too long the death tax has been a major factor in the failure of family businesses. The tax not only forces American families to hand over their hard work to the government; family businesses spend millions of dollars every year trying to comply with these regulations. In addition, it discourages savings and investment, and it is costing our economy hundreds of thousands of new jobs.

Mr. Speaker, 89 percent of Americans want death taxes repealed. Small business owners get it, seniors get it, the farmers in my district get it.

Mr. Speaker, I urge my colleagues to join the leadership and to support this rule in favor of H.R. 8.

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

Again, I am having trouble following this debate here. The gentlewoman from Tennessee talked about the thousands of people in her district that had to pay the estate tax last year. I am reading from a report here that said there were roughly 440 taxable estates, or about 2 percent of all taxable estates were made up of farm and business assets in the year 2004.

What we are talking about here, and again, if we agree to the Pomeroy substitute, is three-tenths of 1 percent of the wealthiest people in this country. That is what we are talking about. We are not talking about family farms. I mean, that is a red herring. We are not talking about small businesses. We are talking about the Campbell Soup fortunes, the Mars candy fortunes. We are talking about the richest of the rich. That is what this is about.

What is unconscionable is that we are moving forward on this at a time when the majority of this House is proposing budgets that slash Medicaid, that cut community development block grants, that cut veterans health benefits, that cut education, that cut things that people rely on every single day. This is absurd that we are having this debate here today.

Again, I would urge my colleagues to look at the facts. Please do not exaggerate the impact of the difference between what the gentleman from North Dakota (Mr. POMEROY) has suggested

and what you are proposing here. What you are doing here is trying to extend this to protect the richest of the rich, and that is just wrong.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume to remind my colleagues that the rule that we are debating here to talk about the repeal of the death tax makes in order the substance of the subject that the gentleman from Massachusetts talked about, the Pomeroy substitute. We will have a vigorous debate on that. This is a very fair rule so that we can debate the difference between the two, and the body will work its will.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of the rule and the Death Tax Repeal Permanency Act of 2005. I do so, Mr. Speaker, really to just speak about small business America and about a small businessman who raised me.

It was 17 years ago today at the too-young age of 58 that my father, Ed Pence, passed away. It happens to be an unfortunate anniversary in my family, but on April 13, 1988, we said goodbye to my father. He was a small business owner that many on the floor of the Congress today would classify as a rich American.

Now, the rich American that I saw was a man who started out in a very small business in Columbus, Indiana, and worked tirelessly to raise his four sons and two daughters and build a business that employed several hundred local people in support of their families. It is really, with the memory of my father in mind, that I rise in vigorous support of the permanent repeal of the death tax. Because while my family was reeling from the grief of the loss of my father to a sudden heart attack 17 years ago today, also we were settling into the reality that much of what he had built, all of which he had already paid taxes on, was now subject to as much as a 47 percent estate tax.

My father's death and the business that he built and the resources that he had husbanded, after paying all of his debts and all of his taxes, should not have been subject to another tax. And we come into this well today on behalf of small business owners and family farmers just like my dad to put to an end permanently this truly immoral death tax in America.

It is the reality out there, not the heated rhetoric of rich versus poor, that explains why 89 percent of small business owners favor permanent repeal. In fact, they know that more than 70 percent of family businesses do not survive to a second generation; 87 percent do not make it to a third generation. Much is made of middle America that I am proud to represent and

the fact that Main Streets and courthouse squares are largely boarded up. People want to blame the Internet. They want to blame mass retailers. Well, I put the majority of the blame in practical terms at the doorstep of the death tax. It has waged war on small business and family farmers all across America, and we will begin to reverse that in a permanent way today.

So in the tender memory of my father, of his earnest labors, and with it in my mind the men and women who to this day labor to raise their families and build small businesses and family farms all across America that I extol the authors of this bill. I endorse the rule, and I vigorously support the permanent repeal of the death tax.

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

I want to make it clear, as there is a lot of misinformation being promoted on the other side here: our side supports relief for family farmers and small businesses. That is not what we are talking about here today. The difference between our approach is the three-tenths of 1 percent richest people in this country, the Paris Hiltons of the world, the executives at Campbell Soup, the heirs of Campbell Soup or Mars candy if you read The Washington Post today. That is what this is about. In a climate where the majority is cutting Medicaid, cutting veterans benefits, cutting programs that help feed the most vulnerable in our country, to go out and protect and to try to extend a special tax cut to those richest people in this country, I think, is unconscionable.

Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts, for leading the debate on this important rule in this fashion. I will just respond to my friend, the gentleman from Indiana (Mr. PENCE), the preceding speaker.

It is important that we talk about real facts today and, honest to goodness, some of the language does not reflect what reality would be relative to the estate tax if you would pass the Pomeroy substitute and set it at \$6 million per couple, taking care of, making estate tax completely go away for 99.7 percent of the people in this country. Language like "waging war on small business" and the majority reason for why small family farms do not pass on, 99.7 percent have no, absolutely no estate tax under the proposal that we are advancing. Clearly, that language does not match the facts of the proposal that we have advanced.

We heard about the immorality of taxing for the wealthiest three out of the 1,000 estates in this country. I believe another immorality is on the floor today, and that is the immorality of privatizing Social Security and reducing the benefits of Social Security for our children and grandchildren. An essential part of the Social Security

debate is changing the inflation index that would reduce the benefit for our subsequent generations. In my opinion, that is immoral.

What I think we ought to have captured in this debate on estate tax is the trade-off, because they say it is just estate tax; believe me, it is also Social Security. If you take \$290 billion out of the budget for the wealthiest three out of 1,000, you impact the ability to fix Social Security for everybody else. And the proposal I would like considered before the House is, let us give immediate and certain estate tax relief, 6 million per couple, and let us capture the amount over that dedicated to Social Security. That would fill 40 percent of the unfunded liabilities.

In context, we are looking at a 75-year solvency figure that the President has found so troublesome he wants to privatize Social Security. Well, by dedicating the sums that we capture with this three-tenths of 1 percent, we could fill 40 percent of the hole on Social Security. We would not have to cut benefits for our children. We would not have to cut benefits for our grandchildren.

So what we have is a very reasonable proposal going forward. Let us make the estate tax go away for 99.7 percent of the estates in this country. Let us not impose new capital gains taxes at the time of estates, and let us dedicate the difference to addressing Social Security. It brings us almost halfway there in terms of keeping all of the guarantees, while meeting the funding challenge over the next 75 years.

That is what is advanced by the minority proposal in this debate, and I hope it will get my colleagues' close consideration.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, we have heard a lot of rhetoric here today, and some of it a bit disingenuous. I think it is a bit disingenuous to say in a loud tone, demanding an answer to some rhetorical question, and then demand, well, I hear none, when all of us here are observing the rules and not interrupting. It is a bit interesting to hear people talk about red herrings, and I like hearing from people across the aisle that they want to talk about real facts. So let me talk about real facts.

This, my friends, is a music box. It plays Amazing Grace. I would wind it up and play it now if the rules allowed that.

□ 1215

It belonged to my Great Aunt Lillie. She was land rich. Over a hundred years their family accumulated land, farm and ranch. I bought this music box at an IRS auction where the IRS forced the sale of everything she owned. They accumulated about 2,500 acres of farm and ranch land. She died in July of 1986, and shortly thereafter

land was dumped on the market. Times were rough, and the value of the land that was around \$2,000 an acre when she died went to \$600 or \$700 an acre.

The IRS was actually very gracious. They gave a couple of extensions or so. They allowed another appraisal, but it was around \$2,000 an acre when she died.

The IRS required the sale of every acre of land that they owned. They sold every item out of her home. If anybody in the family wanted anything, we had to show up at the auction and buy it. I bought this keepsake to remember my Great Aunt Lillie, who had been so gracious and kind and a great farm woman and a great gentlewoman.

So if you want to talk about the death tax in real facts, here it is. The death tax provides no grace, amazing or otherwise. It is a socialist notion, and it needs to go away.

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

Let me again, just for the record, point out that the Pomeroy substitute would provide \$3 million in relief for individuals immediately, \$3.5 million by 2009, and \$7 million per couple. And, again, what we are talking about here is not what the gentleman just spoke of. What we are talking about here is the richest of the rich in this country.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Washington for yielding this time.

Mr. Speaker, in the last 2 years, the economy has created over 3 million new jobs. The unemployment rate is down. Our Nation's total output, or Gross Domestic Product, is up. Home ownership is at a record high, and personal income has increased.

Our economy is strong. To ensure that we continue to enjoy prosperity, Congress should support a pro-economic growth agenda that creates jobs and helps small businesses grow. This includes reducing taxes.

Our families and our country are better off when they keep more of what they earn. One way to enable them to do that is to pass H.R. 8, which permanently repeals the punitive death tax.

This tax often prevents parents from passing along their life's work and savings to their children. Family farms, ranches and small businesses are forced to be sold to satisfy the death tax rates which can reach 55 percent.

No one should be taxed throughout their lifetime and then have their property retaxed at the time of their death. It is the wrong tax at the wrong time on the wrong people.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I think this piece of legislation that the majority is clearly going to be able to pass today is one of the most outrageous tax cuts that we have brought

to the House floor. The Democrats are going to offer an alternative, and I appreciate the fact that it was allowed by the Rules Committee, but this alternative would exempt 99.7 percent of American families from having to pay inheritance taxes. So all we are really talking about is three-tenths of 1 percent, a relative handful, the people who clearly can most afford to pay taxes.

This excessive, unnecessary cut will pass despite the fact that, within the last few legislative sessions, this Congress has voted to take 300,000 families off food stamps, to take 300,000 children off daycare, to run the risk, by taking \$20 billion out of Medicaid, that as many as 7 million very poor elderly people dependent on government help in nursing homes will not get that assistance.

Where are our priorities? Where is our source of fairness?

You know, I think that we would all agree that we believe in equal opportunity. But in this country, unfortunately, when you see the effect of these tax cuts, that equal opportunity is really dependent upon the accident of birth. Millions of people in our country are suffering for the accident of birth, without health insurance, without any real prospect of getting decent schooling. And yet where are we putting our tax cuts? What excuse are we using for burdening the next generation with hundreds of billions of dollars of debt?

We are taking hundreds of billions of dollars, borrowing it from the Social Security trust funds, just to give more help to the very children who, because of the accident of birth, have the very best education that this country can allow, have all the contacts imaginable, are virtually guaranteed economic success unless they choose to turn their backs on it.

What we have done is to turn our backs on the vast majority of the American people, and to close our consciences to our children's generation, who are getting swamped with debt. This bill is going to cost \$290 billion added on to a public debt that our children will never be able to recover from. And it is not necessary.

I ask you to consider the fact that it takes away the stepped-up basis at the point of inheritance, insuring that there will be more small businesses, more family farms that are going to get hurt—over 70 thousand—by this provision, by this legislation than are going to be helped, because they are going to have to pay capital gains at the point when they actually inherit calculated by going back to the original cost to the deceased. So it just does not make any sense, other than to people gripped by this ideological fervor to cut taxes irregardless of the rationale or the consequence. It is terrible legislation. It ought to be defeated.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1¾ minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise today as a proud cosponsor of H.R. 8,

the Death Tax Repeal Permanency Act of 2005.

First, I would like to take this opportunity to thank the gentleman from Missouri (Mr. HULSHOF) for his leadership on the bill.

Mr. Speaker, I do not believe that there has ever been a more reprehensible tax on the face of the earth than the death tax. The death tax represents not only a tax on the deceased but also on their families. Husbands, wives and children and other relatives bear the burden of this tax while they are still struggling to cope with the loss of their loved one.

Mr. Speaker, it is intolerable and absolutely unacceptable for the Federal Government to exact a tax on death and on the surviving families, causing them to lose their homes, their business, their farms and the lives they have struggled to build.

After all, they have created and established these businesses with after-tax dollars. Taxes have already been paid, and every bit of profit that they might make in a year is taxed as well.

Currently, the repeal of the death tax is set to expire in 2010; and, Mr. Speaker, I cannot understand how anyone would allow the Federal Government to hand a grieving family in 2011 a bill for the death of their loved one. Death's inevitability should not be a taxable event.

Mr. Speaker, let us get the Federal Government off the backs of grieving families and pass this rule and this bill for the sake of fairness and decency.

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

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I rise today as a cosponsor of H.R. 8 and in support of this rule. I believe, as most Americans do, that it is unacceptable for a grieving family who has recently lost a loved one to get a visit from the undertaker and the IRS on the very same day. It is unconscionable, and it ought to be illegal.

The death tax is really a tax on the American dream. Americans work hard all their lives building up farms and ranches and small businesses, hoping that maybe one day they can pass this along to their families. But after years of payroll taxes and income taxes and sales taxes and property taxes, many businesses and farms just do not make it. And those that do, the government can step in and take over half of what they worked their entire life to build.

Now, Mr. Speaker, I grew up working on a farm, and I represent a large portion of rural East Texas. East Texas is a great place to live, but sometimes it can be a challenging place to make a good living.

Recently, I spoke to a rancher in my district who has worked hard nearly 30 years building up a cattle ranch operation. His greatest dream is one day to leave that ranch to his family. But

with sadness in his voice he told me, you know what, Congressman? By the time the government takes its share, there is just not enough to go around.

It is not fair to take that family's ranch. It is not fair that Americans are being taxed twice on the same income. And it is not fair that the Federal Government can step in and automatically inherit 55 percent of the family farm, a family business or a family nest egg.

Mr. Speaker, let us vote for this rule. Let us support H.R. 8. Let us kill the death tax and breathe new life into the American dream.

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

Mr. Speaker, what the majority is doing today is wrong. We need to help family farmers and small businesses. We all agree on that, and the substitute that the gentleman from North Dakota (Mr. POMEROY) puts forth does that, with very generous exemptions.

But what the majority is suggesting is that somehow we need to do something to help the three-tenths of 1 percent of the richest people in this country at a time when they present budgets that cut Medicaid, that cut veterans benefits, that cut educational programs, that cut programs for the poor.

I mean, what are you doing? How can you come here with a straight face and say that we need to help the three-tenths of 1 percent richest people in this country, when so many people who are struggling in the middle class, so many struggling to get in the middle class, are having such a difficult time?

This is wrong what you are doing.

Mr. Speaker, at the end of this debate, I will call for a vote on the previous question; and if the previous question is defeated I will offer an amendment to the rule.

My amendment would take the cost difference between the Republicans' estate tax cut bill, which cost \$290 billion, and the Pomeroy estate tax cut bill, which costs \$72 billion, and shift that difference to the Social Security trust fund. We are talking about \$218 billion that could go right into the Social Security trust fund.

The Republican leadership and President Bush claim that there is a Social Security crisis. If they truly believe that there is a crisis, they should step up to the plate and support this effort to shore up the Social Security trust fund now.

The Pomeroy substitute will exempt 99.7 percent of all estates. 99.7 percent. With this amendment we can restore \$218 billion back to the Social Security trust fund and help save Social Security for future generations.

Mr. Speaker, there are a lot of people on the other side of the aisle who go back home and do town hall meetings and tell their constituents that they are for protecting Social Security. Well, this is a vote to show that you want to protect Social Security.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

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

There was no objection.

Mr. MCGOVERN. Again, Mr. Speaker, I would urge that the people join with us on this vote.

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

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

Mr. Speaker, this is not the first time that this body has addressed the issue of repealing or making permanent the death tax. In the 106th Congress, on a bipartisan basis, with 279 votes in favor, this body voted in favor of permanently eliminating the death tax. And the other body, also on a bipartisan basis, they, too, voted to permanently eliminate the death tax, but President Clinton vetoed that bill.

□ 1230

In the 107th Congress, again on a bipartisan basis, the House voted to eliminate the death tax permanently. Unfortunately, in the reconciliation of trying to put the differences between the two Houses together, we put the date of the 2011 when that would expire.

In the last Congress, once again the House addressed this issue and voted to permanently eliminate this death tax.

The bill that we will address when we pass this rule is exactly the same as the bill that we passed on a bipartisan basis in the last Congress.

Mr. Speaker, I urge my colleagues to vote for the rule and the underlying bill.

The material previously referred to by Mr. MCGOVERN is as follows:

AMENDMENT TO H. RES. 202 OFFERED BY REP. MCGOVERN

At the end of the resolution, add the following:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment made in order under the first section of this resolution shall be modified by adding at the end the following new section:

SECTION \_\_. TRANSFERS TO SOCIAL SECURITY.

(a) FINDINGS.—Congress hereby finds that—

(1) permanent repeal of the estate tax will cost \$290 billion over the 10-year budget window,

(2) this \$290 billion understates the long-term cost of repeal—in the last year of the budget window repeal of the estate tax will cost \$70 billion,

(3) in the next decade, the cost of repealing the estate tax together with the increased interest cost to the United States would be substantially above \$1 trillion,

(4) the enormous cost of repealing the estate tax would only benefit the wealthiest 0.3 percent of all families in the United States,

(5) permanent repeal of the estate tax would result in a substantial reduction in income tax receipts, and could result in lower receipts in the Social Security Trust Funds because of that tax avoidance,

(6) the provisions of this Act would prevent the reduction in Social Security receipts that could result from permanent repeal and it would preserve funds necessary to meet

commitments made to the Social Security system or other programs,

(7) the provisions of this Act provide immediate and substantial estate tax relief, exempting 99.7 percent of all estates from the estate tax,

(8) the United States is faced with many other fiscal challenges, including the requirement to meet the commitments made through the Social Security system, and

(9) the amounts saved by enacting this Act as compared to permanent repeal—

(A) in the long run on an annual basis would equal the current costs of the operations in Iraq,

(B) could be used for improvements in veterans benefits, and

(C) would close half of the shortfall faced by the Social Security system.

(b) TRANSFERS TO SOCIAL SECURITY.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

“(o) For purposes of ensuring that amounts are available to meet the commitments of the Social Security system, the Secretary of the Treasury shall, from time to time, transfer from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, the savings from the enactment of the Certain and Immediate Estate Tax Relief Act of 2005 as compared to the permanent repeal of the estate tax by the bill H.R. 8 (as introduced in the 109th Congress) as follows:

“(1) For fiscal years 2010–2015, the transfers in each year shall total for each fiscal year specified in the following table, the amount specified in connection with such fiscal year, as follows:

Table with 2 columns: Fiscal year, Amount Transferred. Rows include 2010 (\$6.1 billion), 2011 (\$35.4 billion), 2012 (\$39.4 billion), 2013 (\$42.7 billion), 2014 (\$47.9 billion), 2015 (\$50.5 billion).

“(2) For fiscal years beginning after September 30, 2015, the transfers in each year shall total the amount the Secretary of the Treasury determines to be the savings from the enactment of such Act as compared to such permanent repeal of the estate tax.”.

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on ordering the previous question.

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

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

The yeas and nays were ordered.

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

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 30 minutes p.m.), the House stood in recess, subject to the call of the Chair.

□ 1338

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 1 o'clock and 38 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, proceedings will now resume on questions previously postponed.

Votes will be taken in the following order:

motion to suspend the rules on H.R. 1463, by the yeas and nays;

motion to suspend the rules on H.R. 787, by the yeas and nays;

ordering the previous question on House Resolution 202, by the yeas and nays;

adoption of House Resolution 202, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

JUSTIN W. WILLIAMS UNITED STATES ATTORNEY'S BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1463.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1463, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 7, as follows:

[Roll No. 98] YEAS—427

Table listing names of members who voted 'Yeas' for H.R. 1463, including Bono, Boozman, Boren, Boswell, Boucher, Boustany, Boyd, Bradley (NH), Brady (PA), Baker, Brady (TX), Cooper, Brown (OH), Brown (SC), Brown, Corrine, Brown-Waite, Ginny, Burgess, Burton (IN), Butterfield, Buyer, Calvert, Camp, Cannon, Cantor, Capito, Capps, Capuano, Cardin, Cardoza, Carnahan, Carson, Carter, Case, Castle, Chabot, Chandler, Chocola, Clay, Cleaver, Clyburn, Coble, Cole (OK), Conaway, Conyers, Cooper, Costa, Costello, Cox, Cramer, Crenshaw, Crowley, Cubin, Cuellar, Culberson, Cummings, Cunningham, Davis (AL), Davis (CA), Davis (FL), Davis (IL), Davis (KY), Davis, Jo Ann, Davis, Tom, Deal (GA), DeFazio, DeGette, Delahunt, DeLauro, DeLay.

|                  |                 |                  |             |               |             |                  |                 |                  |
|------------------|-----------------|------------------|-------------|---------------|-------------|------------------|-----------------|------------------|
| Dent             | Kelly           | Pascrell         | Tierney     | Wasserman     | Whitfield   | Ford             | Linder          | Rehberg          |
| Diaz-Balart, L.  | Kennedy (MN)    | Pastor           | Towns       | Schultz       | Wicker      | Fortenberry      | Lipinski        | Reichert         |
| Diaz-Balart, M.  | Kennedy (RI)    | Paul             | Turner      | Waters        | Wilson (NM) | Fossella         | LoBiondo        | Renzi            |
| Dicks            | Kildee          | Payne            | Udall (CO)  | Watson        | Wilson (SC) | Fox              | Lofgren, Zoe    | Reynolds         |
| Dingell          | Kilpatrick (MI) | Pearce           | Udall (NM)  | Watt          | Wolf        | Frank (MA)       | Rogers          | Lowey            |
| Doggett          | Kind            | Pelosi           | Upton       | Waxman        | Woolsey     | Franks (AZ)      | Lucas           | Rogers (KY)      |
| Doyle            | King (IA)       | Pence            | Van Hollen  | Weiner        | Wu          | Frelinghuysen    | Lungren, Daniel | Rogers (MI)      |
| Drake            | King (NY)       | Peterson (MN)    | Velázquez   | Weldon (FL)   | Wynn        | Gallegly         | E.              | Rohrabacher      |
| Dreier           | Kingston        | Peterson (PA)    | Visclosky   | Weldon (PA)   | Young (AK)  | Garrett (NJ)     | Lynch           | Ros-Lehtinen     |
| Duncan           | Kirk            | Petri            | Walden (OR) | Weller        | Young (FL)  | Gerlach          | Mack            | Ross             |
| Edwards          | Kline           | Pickering        | Walsh       | Westmoreland  |             | Gibbons          | Maloney         | Rothman          |
| Ehlers           | Knollenberg     | Pitts            | Wamp        | Wexler        |             | Gilchrest        | Manzullo        | Roybal-Allard    |
| Emanuel          | Kolbe           | Platts           |             |               |             | Gingrey          | Marchant        | Royce            |
| Emerson          | Kucinich        | Poe              |             |               |             | Gohmert          | Markey          | Ruppersberger    |
| Engel            | Kuhl (NY)       | Pombo            | Baird       | Frelinghuysen | Meeks (NY)  | Gonzalez         | Marshall        | Rush             |
| English (PA)     | LaHood          | Pomeroy          | Davis (TN)  | Gillmor       |             | Goode            | Matheson        | Ryan (OH)        |
| Eshoo            | Langevin        | Porter           | Doolittle   | Hunter        |             | Goodlatte        | Matsui          | Ryan (WI)        |
| Etheridge        | Lantos          | Portman          |             |               |             | Gordon           | McCarthy        | Ryun (KS)        |
| Evans            | Larsen (WA)     | Price (GA)       |             |               |             | Granger          | McCaul (TX)     | Sabo             |
| Everett          | Larson (CT)     | Price (NC)       |             |               |             | Graves           | McCollum (MN)   | Salazar          |
| Farr             | Latham          | Pryce (OH)       |             |               |             | Green (WI)       | McCotter        | Sánchez, Linda   |
| Fattah           | LaTourette      | Putnam           |             |               |             | Green, Al        | McCrery         | T.               |
| Feeney           | Leach           | Radanovich       |             |               |             | Green, Gene      | McDermott       | Sanchez, Loretta |
| Ferguson         | Lee             | Rahall           |             |               |             | Grijalva         | McGovern        | Sanders          |
| Fillner          | Levin           | Ramstad          |             |               |             | Gutierrez        | McHenry         | Saxton           |
| Fitzpatrick (PA) | Lewis (CA)      | Rangel           |             |               |             | Gutknecht        | McHugh          | Schakowsky       |
| Flake            | Lewis (GA)      | Regula           |             |               |             | Hall             | McIntyre        | Schiff           |
| Foley            | Lewis (KY)      | Rehberg          |             |               |             | Harman           | McKeon          | Schwartz (PA)    |
| Forbes           | Linder          | Reichert         |             |               |             | Harris           | McKinney        | Schwarz (MI)     |
| Ford             | Lipinski        | Renzi            |             |               |             | Hart             | McMorris        | Scott (GA)       |
| Fortenberry      | LoBiondo        | Reyes            |             |               |             | Hastings (FL)    | McNulty         | Scott (VA)       |
| Fossella         | Lofgren, Zoe    | Reynolds         |             |               |             | Hastings (WA)    | Meehan          | Sensenbrenner    |
| Fox              | Lowey           | Rogers (AL)      |             |               |             | Hayes            | Meek (FL)       | Serrano          |
| Frank (MA)       | Lucas           | Rogers (KY)      |             |               |             | Hayworth         | Meeks (NY)      | Sessions         |
| Franks (AZ)      | Lungren, Daniel | Rogers (MI)      |             |               |             | Hefley           | Melancon        | Shadegg          |
| Gallegly         | E.              | Rohrabacher      |             |               |             | Hensarling       | Menendez        | Shaw             |
| Garrett (NJ)     | Lynch           | Ros-Lehtinen     |             |               |             | Herger           | Mica            | Shays            |
| Gerlach          | Mack            | Ross             |             |               |             | Herseth          | Michaud         | Sherman          |
| Gibbons          | Maloney         | Rothman          |             |               |             | Higgins          | Millender-      | Sherwood         |
| Gilchrest        | Manzullo        | Roybal-Allard    |             |               |             | Hinchev          | McDonald        | Shimkus          |
| Gingrey          | Marchant        | Royce            |             |               |             | Hinojosa         | Miller (FL)     | Shuster          |
| Gohmert          | Markey          | Ruppersberger    |             |               |             | Hobson           | Miller (MI)     | Simmons          |
| Gonzalez         | Marshall        | Rush             |             |               |             | Hoekstra         | Miller (NC)     | Simpson          |
| Goode            | Matheson        | Ryan (OH)        |             |               |             | Holden           | Miller, Gary    | Skelton          |
| Goodlatte        | Matsui          | Ryan (WI)        |             |               |             | Holt             | Miller, George  | Slaughter        |
| Gordon           | McCarthy        | Ryan (KS)        |             |               |             | Honda            | Mollohan        | Smith (NJ)       |
| Granger          | McCaul (TX)     | Sabo             |             |               |             | Hooley           | Moore (KS)      | Smith (TX)       |
| Graves           | McCollum (MN)   | Salazar          |             |               |             | Hostettler       | Moore (WI)      | Smith (WA)       |
| Green (WI)       | McCotter        | Sánchez, Linda   |             |               |             | Hoyer            | Moran (KS)      | Snyder           |
| Green, Al        | McCrery         | T.               |             |               |             | Hulshof          | Moran (VA)      | Sodrel           |
| Green, Gene      | McDermott       | Sanchez, Loretta |             |               |             | Hunter           | Murphy          | Solis            |
| Grijalva         | McGovern        | Sanders          |             |               |             | Hyde             | Murtha          | Souder           |
| Gutierrez        | McHenry         | Saxton           |             |               |             | Inglis (SC)      | Musgrave        | Spratt           |
| Gutknecht        | McHugh          | Schakowsky       |             |               |             | Inslee           | Myrick          | Stark            |
| Hall             | McIntyre        | Schiff           |             |               |             | Israel           | Nadler          | Stearns          |
| Harman           | McKeon          | Schwartz (PA)    |             |               |             | Issa             | Napolitano      | Strickland       |
| Harris           | McKinney        | Schwarz (MI)     |             |               |             | Istook           | Neal (MA)       | Stupak           |
| Hart             | McMorris        | Scott (GA)       |             |               |             | Jackson (IL)     | Neugebauer      | Sullivan         |
| Hastings (FL)    | McNulty         | Scott (VA)       |             |               |             | Jackson-Lee      | Ney             | Sweeney          |
| Hastings (WA)    | Meehan          | Sensenbrenner    |             |               |             | (TX)             | Northup         | Tancred          |
| Hayes            | Meek (FL)       | Serrano          |             |               |             | Jefferson        | Norwood         | Tanner           |
| Hayworth         | Melancon        | Sessions         |             |               |             | Jenkins          | Nunes           | Tauscher         |
| Hefley           | Menendez        | Shadegg          |             |               |             | Jindal           | Nussle          | Taylor (MS)      |
| Hensarling       | Mica            | Shaw             |             |               |             | Johnson (CT)     | Oberstar        | Taylor (NC)      |
| Herger           | Michaud         | Shays            |             |               |             | Johnson (IL)     | Obey            | Terry            |
| Herseth          | Millender-      | Sherman          |             |               |             | Johnson, E. B.   | Olver           | Thomas           |
| Higgins          | McDonald        | Sherwood         |             |               |             | Johnson, Sam     | Ortiz           | Thompson (CA)    |
| Hinchev          | Miller (FL)     | Shimkus          |             |               |             | Jones (NC)       | Osborne         | Thompson (MS)    |
| Hinojosa         | Miller (MI)     | Shuster          |             |               |             | Jones (OH)       | Otter           | Thornberry       |
| Hobson           | Miller (NC)     | Simmons          |             |               |             | Kanjorski        | Owens           | Tiahrt           |
| Hoekstra         | Miller, Gary    | Simpson          |             |               |             | Kaptur           | Oxley           | Tiberi           |
| Holden           | Miller, George  | Skelton          |             |               |             | Kelly            | Pallone         | Tierney          |
| Holt             | Mollohan        | Slaughter        |             |               |             | Kennedy (MN)     | Pascrell        | Towns            |
| Honda            | Moore (KS)      | Smith (NJ)       |             |               |             | Kennedy (RI)     | Pastor          | Turner           |
| Hooley           | Moore (WI)      | Smith (TX)       |             |               |             | Kildee           | Paul            | Udall (CO)       |
| Hostettler       | Moran (KS)      | Smith (WA)       |             |               |             | Doggett          | Payne           | Udall (NM)       |
| Hoyer            | Moran (VA)      | Snyder           |             |               |             | Doyle            | Pearce          | Upton            |
| Hulshof          | Murphy          | Sodrel           |             |               |             | Drake            | King (IA)       | Van Hollen       |
| Hyde             | Murtha          | Solis            |             |               |             | Dreier           | King (NY)       | Velázquez        |
| Inglis (SC)      | Musgrave        | Souder           |             |               |             | Duncan           | Peterson (MN)   | Visclosky        |
| Inslee           | Myrick          | Spratt           |             |               |             | Edwards          | Peterson (PA)   | Walden (OR)      |
| Israel           | Nadler          | Stark            |             |               |             | Ehlers           | Petri           | Walsh            |
| Issa             | Napolitano      | Stearns          |             |               |             | Emanuel          | Pickering       | Wamp             |
| Istook           | Neal (MA)       | Strickland       |             |               |             | Emerson          | Pitts           | Wasserman        |
| Jackson (IL)     | Neugebauer      | Stupak           |             |               |             | Engel            | Platts          | Schultz          |
| Jackson-Lee      | Ney             | Sullivan         |             |               |             | English (PA)     | Poe             | Waters           |
| (TX)             | Northup         | Sweeney          |             |               |             | Eshoo            | Pombo           | Watson           |
| Jefferson        | Norwood         | Tancred          |             |               |             | Etheridge        | Pomeroy         | Watt             |
| Jenkins          | Nunes           | Tanner           |             |               |             | Evans            | Porter          | Waxman           |
| Jindal           | Nussle          | Tauscher         |             |               |             | Everett          | Portman         | Weiner           |
| Johnson (CT)     | Oberstar        | Taylor (MS)      |             |               |             | Farr             | Price (GA)      | Weldon (FL)      |
| Johnson (IL)     | Obey            | Taylor (NC)      |             |               |             | Fattah           | Price (NC)      | Weldon (PA)      |
| Johnson, E. B.   | Olver           | Terry            |             |               |             | Feeney           | Pryce (OH)      | Weller           |
| Johnson, Sam     | Ortiz           | Thomas           |             |               |             | Ferguson         | Putnam          | Westmoreland     |
| Jones (NC)       | Osborne         | Thompson (CA)    |             |               |             | Filmer           | Radanovich      | Wexler           |
| Jones (OH)       | Otter           | Thompson (MS)    |             |               |             | Fitzpatrick (PA) | Rahall          | Whitfield        |
| Kanjorski        | Owens           | Thornberry       |             |               |             | Flake            | Ramstad         | Wicker           |
| Kaptur           | Oxley           | Tiahrt           |             |               |             | Foley            | Rangel          | Wilson (NM)      |
| Keller           | Pallone         | Tiberi           |             |               |             | Forbes           | Regula          | Wilson (SC)      |

NOT VOTING—7

□ 1403

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ROBERT T. MATSUI UNITED STATES COURTHOUSE

The SPEAKER pro tempore (Mr. LAHOOD.) The pending business is the question of suspending the rules and passing the bill, H.R. 787.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 787, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 99]

YEAS—426

|               |                |                  |
|---------------|----------------|------------------|
| Abercrombie   | Brady (TX)     | Cunningham       |
| Ackerman      | Brown (OH)     | Davis (AL)       |
| Aderholt      | Brown (SC)     | Davis (CA)       |
| Akin          | Brown, Corrine | Davis (FL)       |
| Alexander     | Brown-Waite,   | Davis (IL)       |
| Allen         | Ginny          | Davis (KY)       |
| Andrews       | Burgess        | Davis (TN)       |
| Baca          | Burton (IN)    | Davis, Jo Ann    |
| Bachus        | Butterfield    | Davis, Tom       |
| Baker         | Buyer          | DeFazio          |
| Baldwin       | Camp           | DeGette          |
| Barrett (SC)  | Cannon         | Delahunt         |
| Barrow        | Cantor         | DeLauro          |
| Bartlett (MD) | Capito         | DeLay            |
| Barton (TX)   | Capps          | Dent             |
| Bass          | Capuano        | Diaz-Balart, L.  |
| Bean          | Cardoza        | Diaz-Balart, M.  |
| Beauprez      | Carnahan       | Dicks            |
| Becerra       | Carson         | Dingell          |
| Berkley       | Carter         | Doggett          |
| Berman        | Caspe          | Doyle            |
| Berry         | Castle         | Drake            |
| Biggert       | Chabot         | Dreier           |
| Bilirakis     | Chandler       | Duncan           |
| Bishop (GA)   | Clay           | Edwards          |
| Bishop (NY)   | Cleaver        | Ehlers           |
| Bishop (UT)   | Clyburn        | Emanuel          |
| Blackburn     | Coble          | Emerson          |
| Blumenauer    | Cole (OK)      | Engel            |
| Blunt         | Conaway        | English (PA)     |
| Boehlert      | Conyers        | Eshoo            |
| Boehner       | Cooper         | Etheridge        |
| Bonilla       | Costa          | Evans            |
| Bonner        | Costello       | Everett          |
| Bono          | Cox            | Farr             |
| Boozman       | Cramer         | Fattah           |
| Boren         | Crenshaw       | Feeney           |
| Boswell       | Crowley        | Ferguson         |
| Boucher       | Cubin          | Filmer           |
| Boustany      | Cuellar        | Fitzpatrick (PA) |
| Boyd          | Culberson      | Flake            |
| Bradley (NH)  | Cummings       | Foley            |
| Brady (PA)    |                | Forbes           |

|         |      |            |
|---------|------|------------|
| Wolf    | Wu   | Young (AK) |
| Woolsey | Wynn | Young (FL) |

NOT VOTING—8

|         |           |        |
|---------|-----------|--------|
| Baird   | Deal (GA) | Keller |
| Calvert | Doolittle | Reyes  |
| Chocola | Gillmor   |        |

|                    |               |              |
|--------------------|---------------|--------------|
| Leach              | Pence         | Shays        |
| Lewis (CA)         | Peterson (PA) | Sherwood     |
| Lewis (KY)         | Petri         | Shimkus      |
| Linder             | Pickering     | Shuster      |
| LoBiondo           | Pitts         | Simmons      |
| Lucas              | Platts        | Simpson      |
| Lungren, Daniel E. | Poe           | Smith (NJ)   |
| Mack               | Pombo         | Smith (TX)   |
| Manzullo           | Porter        | Sodrel       |
| Marchant           | Portman       | Souder       |
| McCaul (TX)        | Price (GA)    | Stearns      |
| McCotter           | Pryce (OH)    | Sullivan     |
| McCrary            | Putnam        | Sweeney      |
| McHenry            | Radanovich    | Tancredo     |
| McHugh             | Rahall        | Taylor (NC)  |
| McKeon             | Ramstad       | Terry        |
| McMorris           | Regula        | Thomas       |
| Mica               | Rehberg       | Thornberry   |
| Miller (FL)        | Reichert      | Tiahrt       |
| Miller (MI)        | Renzi         | Tiberi       |
| Miller, Gary       | Reynolds      | Turner       |
| Moran (KS)         | Rogers (AL)   | Upton        |
| Murphy             | Rogers (KY)   | Walden (OR)  |
| Musgrave           | Rogers (MI)   | Walsh        |
| Myrick             | Rohrabacher   | Wamp         |
| Neugebauer         | Ros-Lehtinen  | Weldon (FL)  |
| Ney                | Royce         | Weldon (PA)  |
| Northup            | Rush          | Weller       |
| Norwood            | Ryan (WI)     | Westmoreland |
| Nunes              | Ryun (KS)     | Whitfield    |
| Nussle             | Saxton        | Wicker       |
| Osborne            | Schwarz (MI)  | Wilson (NM)  |
| Otter              | Scott (GA)    | Wilson (SC)  |
| Oxley              | Sensenbrenner | Wolf         |
| Paul               | Sessions      | Young (AK)   |
| Pearce             | Shadegg       | Young (FL)   |
|                    | Shaw          |              |

|               |           |         |
|---------------|-----------|---------|
| Thompson (MS) | Visclosky | Weiner  |
| Tierney       | Wasserman | Wexler  |
| Towns         | Schultz   | Woolsey |
| Udall (CO)    | Waters    | Wu      |
| Udall (NM)    | Watson    | Wynn    |
| Van Hollen    | Watt      |         |
| Velázquez     | Waxman    |         |

□ 1411

So (two-thirds having voted in favor thereof) the rules were suspended and the 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. DOOLITTLE. Mr. Speaker, on rollcall Nos. 98–99 I was unavoidably detained. Had I been present, I would have voted “yea” on both.

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX REPEAL PERMANENCY ACT OF 2005

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 202, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote. The vote was taken by electronic device, and there were yeas 237, nays 195, not voting 2, as follows:

[Roll No. 100] YEAS—237

|               |                  |               |
|---------------|------------------|---------------|
| Aderholt      | Cox              | Granger       |
| Akin          | Cramer           | Graves        |
| Alexander     | Crenshaw         | Green (WI)    |
| Bachus        | Cubin            | Gutknecht     |
| Baker         | Culberson        | Hall          |
| Barrett (SC)  | Cunningham       | Harman        |
| Bartlett (MD) | Davis (KY)       | Harris        |
| Barton (TX)   | Davis, Jo Ann    | Hart          |
| Bass          | Davis, Tom       | Hastings (WA) |
| Beauprez      | Deal (GA)        | Hayes         |
| Biggert       | DeLay            | Hayworth      |
| Bilirakis     | Dent             | Hefley        |
| Bishop (GA)   | Diaz-Balart, L.  | Hensarling    |
| Bishop (UT)   | Diaz-Balart, M.  | Herger        |
| Blackburn     | Doolittle        | Hobson        |
| Blunt         | Drake            | Hoekstra      |
| Boehrlert     | Dreier           | Hostettler    |
| Boehner       | Duncan           | Hulshof       |
| Bonilla       | Ehlers           | Hunter        |
| Bonner        | Emerson          | Hyde          |
| Bono          | English (PA)     | Inglis (SC)   |
| Boozman       | Everett          | Issa          |
| Boustany      | Feeney           | Istook        |
| Bradley (NH)  | Ferguson         | Jenkins       |
| Brady (TX)    | Fitzpatrick (PA) | Jindal        |
| Brown (SC)    | Flake            | Johnson (CT)  |
| Brown-Waite,  | Foley            | Johnson (IL)  |
| Ginny         | Forbes           | Johnson, Sam  |
| Burgess       | Fortenberry      | Jones (NC)    |
| Burton (IN)   | Fossella         | Keller        |
| Buyer         | Fox              | Kelly         |
| Calvert       | Franks (AZ)      | Kennedy (MN)  |
| Camp          | Frelinghuysen    | King (IA)     |
| Cannon        | Gallely          | King (NY)     |
| Cantor        | Garrett (NJ)     | Kingston      |
| Capito        | Gerlach          | Kirk          |
| Carter        | Gibbons          | Kline         |
| Castle        | Gilchrest        | Knollenberg   |
| Chabot        | Gingrey          | Kolbe         |
| Chocola       | Gohmert          | Kuhl (NY)     |
| Coble         | Goode            | LaHood        |
| Cole (OK)     | Goodlatte        | Latham        |
| Conaway       | Gordon           | LaTourette    |

NAYS—195

|                |                 |                  |
|----------------|-----------------|------------------|
| Abercrombie    | Fattah          | Melancon         |
| Ackerman       | Filner          | Menendez         |
| Allen          | Ford            | Michaud          |
| Andrews        | Frank (MA)      | Millender-       |
| Baca           | Gonzalez        | McDonald         |
| Baldwin        | Green, Al       | Miller (NC)      |
| Barrow         | Green, Gene     | Miller, George   |
| Bean           | Grijalva        | Mollohan         |
| Becerra        | Gutierrez       | Moore (KS)       |
| Berkley        | Hastings (FL)   | Moore (WI)       |
| Berman         | Hersteth        | Moran (VA)       |
| Berry          | Higgins         | Murtha           |
| Bishop (NY)    | Hinchey         | Nadler           |
| Blumenauer     | Hinojosa        | Napolitano       |
| Boren          | Holden          | Neal (MA)        |
| Boswell        | Holt            | Oberstar         |
| Boucher        | Honda           | Obey             |
| Boyd           | Hooley          | Olver            |
| Brady (PA)     | Hoyer           | Ortiz            |
| Brown (OH)     | Inslee          | Owens            |
| Brown, Corrine | Israel          | Pallone          |
| Butterfield    | Jackson (IL)    | Pascrell         |
| Capps          | Jackson-Lee     | Pastor           |
| Capuano        | (TX)            | Payne            |
| Cardin         | Jefferson       | Pelosi           |
| Cardoza        | Johnson, E. B.  | Peterson (MN)    |
| Carnahan       | Jones (OH)      | Pomeroy          |
| Carson         | Kanjorski       | Price (NC)       |
| Cason          | Kaptur          | Rangel           |
| Chandler       | Kennedy (RI)    | Reyes            |
| Clay           | Kildee          | Ross             |
| Cleaver        | Kilpatrick (MI) | Rothman          |
| Clyburn        | Kind            | Roybal-Allard    |
| Conyers        | Kucinich        | Ruppersberger    |
| Cooper         | Langevin        | Ryan (OH)        |
| Costa          | Lantos          | Sabo             |
| Costello       | Larsen (WA)     | Salazar          |
| Crowley        | Larson (CT)     | Sánchez, Linda   |
| Cuellar        | Lee             | T.               |
| Cummings       | Levin           | Sanchez, Loretta |
| Davis (AL)     | Lewis (GA)      | Sanders          |
| Davis (CA)     | Lipinski        | Schakowsky       |
| Davis (FL)     | Lofgren, Zoe    | Schiff           |
| Davis (IL)     | Lowey           | Schwartz (PA)    |
| Davis (TN)     | Lynch           | Scott (VA)       |
| DeFazio        | Maloney         | Serrano          |
| DeGette        | Markey          | Sherman          |
| Delahunt       | Marshall        | Skelton          |
| DeLauro        | Matheson        | Slaughter        |
| Dicks          | Matsui          | Smith (WA)       |
| Dingell        | McCarthy        | Snyder           |
| Doggett        | McCollum (MN)   | Solis            |
| Doyle          | McDermott       | Spratt           |
| Edwards        | McGovern        | Stark            |
| Emanuel        | McIntyre        | Strickland       |
| Engel          | McKinney        | Stupak           |
| Eshoo          | McNulty         | Tanner           |
| Etheridge      | Meehan          | Tauscher         |
| Evans          | Meek (FL)       | Taylor (MS)      |
| Farr           | Meeks (NY)      | Thompson (CA)    |

NOT VOTING—2  
Baird Gillmor

□ 1418

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to. A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 525

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from New York (Mr. TOWNS) removed as a cosponsor of H.R. 525.

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

There was no objection.

DEATH TAX REPEAL PERMANENCY ACT OF 2005

Mr. HULSHOF. Mr. Speaker, pursuant to House Resolution 202, I call up the bill (H.R. 8) to make the repeal of the estate tax permanent, and ask for its immediate consideration.

The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to House Resolution 202, the bill is considered read.

The text of H.R. 8 is as follows:

H.R. 8

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 “Death Tax Repeal Permanency Act of 2005”.

SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment in the nature of a substitute printed in House Report 109–35, if offered by the gentleman from North Dakota (Mr. POMEROY) or his designee, which shall be considered read, shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Missouri (Mr. HULSHOF) and the gentleman from California (Mr. STARK) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Missouri (Mr. HULSHOF).

GENERAL LEAVE

Mr. HULSHOF. 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. 8.

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

There was no objection.

Mr. HULSHOF. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I appreciate the fact that we are here today poised to pass H.R. 8, the Death Tax Repeal Permanency Act of 2005.

On behalf of the lead Democratic sponsor, my colleague, the gentleman from Alabama (Mr. CRAMER), as well as the over 200 bipartisan Members who have co-sponsored this bill, I am pleased that we are poised to pass in this body this commonsense legislation.

I would like to talk about a couple of constituents, particularly a constituent named Howard Effert who is a resident of Columbia, Missouri, who in 1965 began a lumber yard business there in Columbia. He contributed \$100, which was a very modest contribution, as he had three young children to provide for with a modest wage.

He had the idea and a desire for a new venture even though many within the community felt this venture would be unsuccessful, but yet his partners helped him provide the financial assistance and of course some valuable mentoring to help him open the doors to this lumber business.

Fast forward now 40 years. His two sons, Brad and Greg, are running the day-to-day operations of the business. Of course, they want this family business that has been in their family since its modest beginnings in 1965 to be able to be passed on pursuant to the American Dream, that is, to create a legacy, to help your children be better off than you were.

Yet the Effert family today, Mr. Speaker, has to write a check for \$1,000 a week, \$52,036 to be precise, to purchase a term life insurance policy, the proceeds of which will be to pay the Federal Government on that inevitable day that Howard Effert passes from this world to the next.

In 2001 we passed historic legislation that let all income tax payers keep a little bit more of what they earned, and this historic legislation included a repeal of the Federal death tax which was a top tax priority for a lot of small business and family farm groups. Thus under current law, the death tax is gradually phased out between now and 2010. This is accomplished by increasing the exemption from the tax. Currently it is \$1.5 million shielded from this very confiscatory tax, and at the same time we chip away at that top rate, which was as high as 55 percent, and in fact, in a few isolated instances as high as 60 percent tax. We now chip that away, and it is currently 47 percent.

Unfortunately, as we know, the death tax does not stay dead and buried. As things now stand, it will rise from the

grave in 2011, and it will revert to its form prior to 2001. Now, this quirk in the law can be directly attributed to the Senate's Byrd Rule, which applies to the consideration of reconciliation bills.

As a matter of basic fairness, we must permanently repeal the death tax. The death of a family member quite simply should not be a taxable event. And if it was good policy when we enacted it in 2001, it remains a good idea today.

Let me touch briefly on some policy rationales for finishing this unfinished work. The death tax is fundamentally unfair. By its very structure, the tax punishes thrift, savings, and hard work. Conversely, the tax forces taxpayers to engage in a host of economically inefficient activities to avoid the very punitive nature of the tax. Not only does this have a very real effect on taxpayers and their behavior but a negative impact on the economy.

With a tax like the death tax, a family business or farm has no choice but to divert these precious resources, as in the case of the Effert family, to plan financially for the financial impact for the tax: money that could be used to expand the business, to purchase a forklift, to bring another person on the payroll, whatever is in the best interest of that business. Instead, this money is diverted in anticipation of this very punitive tax.

Now, supporters of retaining the death tax will claim that perhaps redistribution of income promotes economic fairness and social responsibility. We will get to have that debate. I respectfully disagree. Instead of rewarding savings and investment, this tax actually rewards those who spend lavishly and leave no ongoing business interest or assets to the next generation.

I am mindful of the bumper sticker that I saw recently traveling Missouri's highways on a big recreational vehicle that says "I am spending my children's inheritance."

If you wanted to give some good estate tax advice to someone that has put together some assets to pass along, it would be simply to consume it. Yet as we talk about some sort of tax reform and perhaps a consumption tax, this tax actually focuses on non-consumption and on thrift and savings.

For that and for a variety of reasons, we will have the opportunity, I hope, in a good debate, in a civil discourse. I think we should permanently repeal the death tax. We should enact H.R. 8.

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

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

Mr. Speaker, I guess it becomes my job to point out that the Republicans are at it again. Another huge tax cut or break for the less than 1 percent of the richest Americans while they turn their back and cut Medicaid, refuse to recognize that Social Security is not in crisis but needs some adjustment, cut Head Start, cut programs for housing,

cut programs for the environment, fail to provide the promised benefits to our 140,000 servicemen in Iraq, turn their back on all that is American to give a few dollars to the very richest of Americans.

Now, not all Republicans are that way. I find that many of the Republicans who have actually worked for a living at some point in their lives, and not just either inherited money or been at the trough of the government, actually oppose this bill. Warren Buffett, the Gates family, people who have done quite well think that as I do it is a stupid bill and will do nothing for our free enterprise system. It will stifle creativity and leave us with a system where merit and ability mean nothing and heredity means everything.

\$300 billion over the next 10 years and perhaps another \$700 billion over the decade following that are going to be frittered away to a very small number of Americans. With that we could end this talk about privatizing Social Security that President Bush is leading, and we could start shoring up the trust fund. We could get rid of the doughnut hole in the poorly constructed Medicare drug benefit. We could fulfill the promise that the President and the Republicans have ignored for funding No Child Left Behind. We could eliminate the proposed cuts to Medicaid which will hurt the poorest children in this country. And while we may help a few very rich children with an inheritance, we will cut hundreds of thousands of children's Medicaid benefits. That could be prevented.

We could cover a large portion of the 45 million people who are without health insurance, I might add 8 million more than when President Bush took office. But Republicans obviously do not care about Social Security or Medicare or the uninsured or education or the children. They only care about tax cuts for the very richest among us.

Now, if you eliminate this, you are only going to help probably less than a couple thousand people a year, and they will arguably have by 2009 estates of over \$7 million. Until now there has not been a family farmer or a small business who has been unable to pass the business on to the next generation.

I might add to my friend from Missouri of his people in the lumber business, if their children cannot get the first \$7 million handed to them and then get a 50 percent down payment on the balance of the business and be given 10 years at less than 6 percent to pay off the balance of that, they are probably too dumb and would lose the business in no time at all anyway.

□ 1430

So what the current law allows is so generous, and there have been absolutely no instances, not one, of a family farmer or family business being lost, decimated or put on the auction block because of the estate tax.

In fact, 99.7 percent of all estates would be exempt from the estate tax if



we just extend the tax as it applies in 2009. They cannot show that it harms people. They can only show that gives billions, \$300 to almost \$1 trillion over 20 years, to the very smallest, most select group of rich people in this country.

It is indeed a follow on of the Republican mantra, give money to the rich, give it to them in huge amounts and cut back on education, cut back on health care, do not help the environment, cut back on support for our troops and cut back on improving America's infrastructure, all in the name of helping the few rich who may be contributors to the Republican party.

I urge that my colleagues vote "no" on the final bill. I urge that my colleagues vote for the gentleman from North Dakota's (Mr. POMEROY) who will offer a responsible substitute, which will at least keep the \$300 billion from being squandered, and it will prevent this bill, which does nothing to help hardworking Americans or small businesses, and I hope we can bring some sanity back to the financial code and to the economic future of this country by not passing this bill.

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

Mr. HULSHOF. Mr. Speaker, a lot of individuals have worked on H.R. 8, and I yield 2 minutes to the gentleman from California (Mr. HERGER), one of those individuals.

Mr. HERGER. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in strong support of legislation to bury the destructive death tax once and for all; and I might mention that my personal experiences, even with my own family and others, has been just the opposite of the gentleman who just spoke before.

Nearly everywhere I go throughout my largely rural, agricultural district in northern California, I hear from businessmen and businesswomen and many farmers and ranchers who have had to liquidate and sell a family business or farm just to pay the Federal estate tax. This is simply wrong.

Four years ago, I joined with President Bush and a majority of Representatives and Senators in an effort to enact into law historic tax relief legislation, including repeal of the death tax. Unfortunately, due to outdated Senate budget rules, the 2001 tax law will sunset on December 31, 2010. This has created an incredibly unfair and arbitrary situation.

Consider that the heirs of those who pass away in 2010 will face no death tax whatsoever, while those whose families are unfortunate enough to pass away in 2011 or thereafter will face tax rates of up to 55 percent on their assets, forcing many of them to have to sell. Certainly no one can reasonably argue that this is rational tax policy.

Furthermore, the death tax extracts a high cost from American taxpayers. Studies have found that family businesses spend up to \$125,000 on attor-

neys, accountants and financial experts to assist in estate planning. These dollars could otherwise be used to modernize equipment, expand their business or farms and create new jobs.

Mr. Speaker, the death tax is, without question, one of the most destructive, counterproductive and unfair provisions of our Tax Code. Let us bury the death tax once and for all. Vote "aye" on this legislation.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, in a few words, this is fiscal madness. It is a death wish on the part of some of my colleagues about fiscal responsibility. What my colleagues are burying is fiscal responsibility.

The national debt is now \$4.6 trillion, \$6.3 if we add in Social Security funds. As mentioned, this bill would add \$290 billion in debt, and who would benefit? The very, very wealthy.

One-third of the estate tax is paid by the wealthiest one of one thousand Americans. I think that is one-tenth of 1 percent. Not farmers or small business people. That is the lamest argument brought to this floor in recent memory.

The Pomeroy amendment would totally take care of this, and what my majority colleagues' bill does, and it is interesting, they do not come here and say so, they would increase the taxes for thousands and thousands of Americans. These citizens would have to pay capital gains tax when they do not now do so. Why do my colleagues not come here and say this is a tax increase for thousands of Americans? They do not say that.

What this is also, everybody should understand, is a further raid on Social Security funds. My colleagues have come here, some of them on the majority side, talking about Social Security and how we need to address the shortfall. For some of these same colleagues, private accounts do not even touch that, and then they come here and increase the shortfall.

This is true fiscal madness. My colleagues will indulge in it again I guess, and I hope, once again, the Senate will come to our rescue.

Mr. HULSHOF. Mr. Speaker, I yield myself 30 seconds.

I am sure the gentleman from Michigan misspoke, and I am certain it was inadvertent. The bill, H.R. 8, actually does allow for a step up in basis of \$3 million for a surviving spouse and another \$1.3 million for surviving heirs.

If the intent of the legislation, which it is, is to help family businesses be passed from one generation to the next and the surviving heirs choose not to farm or continue the family business, then they are the ones making the taxable decision to dispose of assets that would be subject to a 15 percent capital gains rate but certainly not the 45 percent estate tax.

Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW).

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

Listening to the debate that we have listened to from the other side, the sole argument seems to be that it only applies to a small amount of our population, the wealthiest among us. We know that, but I have yet to hear anybody to justify, to give us a good reason to say this is a good and fair tax and here is why.

It seems to be that the argument is being centered around the punitive basis. Let us go after the rich guys. Let us go after them and do something.

I am in favor of the Hulshof bill to repeal the death tax simply because it is the right thing to do. The death tax is wrong. To go in and tax almost half of someone's estate because they have accumulated a lot and to make death an incident of taxation is wrong. It is a wrong tax, and I cannot imagine anybody getting up and justifying it, other than the fact it is a revenue stream to the Federal Government, but it is the wrong one.

Mr. STARK. Mr. Speaker, I yield myself enough time to remind the historians here that it was the Republicans in the 1800s who established the original inheritance tax to prevent a nobility class from forming, an idle nobility class, in this country.

Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, my colleague from Florida, I wish he would stay, because we are here today because the Republican majority would like to repeal the estate tax, but they have forgotten history.

I am sure my colleague was not here, but I would like to remind him that it was a Republican, President Roosevelt, Teddy Roosevelt, who strongly supported an estate tax in the first place. Here is what he said. There is no argument for this.

"The man of great wealth," Teddy said, "owes a particular obligation to the State because he derives special advantages from the mere existence of government." Wow, nicely said, and a Republican, too.

That proves two things, that Republicans can sometimes speak eloquently, and sometimes they can even do something that is right.

Though Republicans want to undo all the good for the sake of greed, please, America, do not be phoned up by this rhetoric that we hear on this bill. They will pitch some gibberish about how they are helping Americans. That is nonsense.

We just came from the Committee on Ways and Means. The reason this place was in recess is because we were over there giving out \$8 billion to oil companies. Those poor people, whose profits have quadrupled in the last 2 years,

that is what we did a little while ago. Now we come over here, and we are going to give more money away. Does that seem like it benefits real people? This is not about real people. This is about very, very, very rich people, and that is about as plainspoken as Teddy Roosevelt would have said it.

Only 2 percent, at the most, pay any estate tax whatsoever. Three-quarters of the money that comes in comes from people with estates over \$2.5 million.

If we repeal this, the rich get richer and America's deficit gets deeper and redder. We create an oligarchic class in this country from whom the money can never be taxed. If they can manipulate it around while they are alive, they can never have to pay a penny.

The real losers in this are not only the American people. It is the American universities, the American churches, all those people who get money contributed by rich people because they do not want to pay the inheritance tax.

Now my colleagues have taken away the encouragement. Why should they give anything away? Oh, well, because they have big hearts. They have big hearts we are told. Really? Then why are we out here with a bill like this which gives them the ability to keep every single dime?

Now if you can give your kid \$2 million and say, now, Johnny, here is two million bucks, I think that ought to kind of get you a start in the world. Does that not seem like enough? Well, to the Republicans, there is never enough; take as much as you can from everybody and keep it.

Ronald Reagan put the sign of the cross on it. He said, are you better off today than you were 4 years ago? Never does anyone say on my colleagues' side, are we better off.

We are in debt to the world. We borrowed from the Japanese last year our entire deficit, more than \$400 billion, and the President wanders around the country saying, well, that is just paper. Those things in the Social Security trust fund, that is just paper. Do not pay any attention to that.

If the Japanese stop buying dollars and they start buying Euros, and the Chinese start buying Euros and the Middle East buys Euros, where do my colleagues think we are going to borrow money and what kind of interest rate are we going to pay? This is a bad bill, it is bad policy, and it is bad ethics.

Mr. HULSHOF. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from the great State of Missouri (Mr. BLUNT) a colleague of mine, the majority whip.

Mr. BLUNT. Mr. Speaker, I thank my good friend, the gentleman from Missouri (Mr. HULSHOF), for yielding to me and for the great work he has done on this issue from the day we came to Congress 8 years ago. I rise in support of the bill that would repeal this tax.

The House and Senate are already both on record for repealing the tax. We just did not repeal it permanently.

□ 1445

By not repealing the tax permanently, we created an incredible situation for those people who would have an estate that was not taxable at all in 2010, but is highly taxable in 2011. The alternatives that the other side of the aisle have discovered during the hard work to achieve the goal of this bill are certainly a long way from where they were a few years ago. In fact, we have all heard about the impact on small businesses and family farms, but it bears repeating as we consider this legislation today.

More than 70 percent of family businesses do not survive the second generation, and 87 percent do not make it to the third generation because of the estate tax. The idea that you give your son \$2 million overlooks the vast numbers of family members in this country who actually are working side by side with their son or daughter. It is hard to tell who made the money and who did not, but on the day that the original member of the family passes away, suddenly the side-by-side partner has a big problem.

Family farms and businesses are among the hardest hit. In fact, \$2 million is quite a bit below the alternative that the gentleman will vote for and suggests that amount somehow would be okay to give in his vote, but not okay to give in his speech. Add in the value of farm equipment and business inventory, suddenly there is a lot more money than you thought you could accumulate.

When we started this debate a few years ago, I saw some statistics that the highest percentage of estates paying at that time were estates that were only slightly above the estate tax amount, but I am sure none of the principals involved had any idea that they had accumulated over their lifetime an estate that would be taxed as a taxable estate.

On Friday of this week, I am going to visit with Mark and Kim Larson who own a family farm right outside of Joplin in my district. Mark tells me he and his family spend a lot of money, money which would otherwise go into continuing to grow their family business, simply trying to comply with a Tax Code that says if somebody dies in 2010, your family deals with one set of circumstances; but if they die the next year, you are impacted by the return of the death tax.

Medium-to-large farms like the Larsons' produce more than 80 percent of agricultural products in America. Let us put some certainty in the future for those kinds of families. Let us do the right thing and abolish this tax that penalizes savings and hard work.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

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

Mr. Speaker, I hope we will reject this bill. Let me give two reasons why:

first, the cost. We talk about being fiscally responsible, we talk about trying to balance the Federal budget and say we have a problem with Social Security as far as long-term solvency of 75 years; but let me point out that the revenue loss of this bill equals the 75-year amount to provide long-term solvency for Social Security.

What we do here is make choices. If we have a choice to provide for the long-term strength of Social Security or the passage of this bill, my vote is for the long-term solvency of Social Security.

The second issue I would like to point out is the predictability of the current estate tax situation. It is not very predictable, and the passage of this bill will do nothing to assure people when they do their estate plans that they can rely upon the schedule Congress has passed.

We have a chance with the Pomeroy substitute to bring certainty to estate taxes with a reasonable exemption of \$3.5 million, \$7 million per couple, and reducing permanently the tax by 10 percent. That is what people want when they do their estate planning. They want predictability.

So if Members are fiscal conservatives and are concerned about the cost of this bill on our children and seniors and if Members want predictability in the estate tax, this legislation does not give it to us. This legislation should be rejected, and we should pass a bill that provides certainty with the estate tax. We will have that opportunity with the fiscally responsible substitute so we can deal with the budget problems of this country.

We are borrowing way too much money for our children and grandchildren. They deserve better than that. They deserve a Congress that will be fiscally responsible, and the passage of this bill just does not do it. I urge my colleagues to reject this legislation.

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

Mr. Speaker, among the many groups that support H.R. 8, including the National Federation of Independent Business, which is the voice of small business, there are many minority owners of small businesses that also support complete repeal.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to recognize the hard-working people of America who play by the rules and have paid their fair share. Decent, law-abiding, tax-paying Americans are the backbone of this country, and they are the salt of the Earth. They are the farmers of southwest Georgia and the family business owners who provide the jobs that keep small rural communities alive and flourishing.

All across this land are Americans who have paid their taxes all their lives, only to face a final taxing event at death. They paid their taxes during

their lifetimes and should not be charged again when they die.

The death tax represents all that is unfair and unjust about the tax structure in America because it undermines the life work and the life savings of Americans who want only to pass on to their children and grandchildren the fruits of their labor and the realization of their American Dream.

In my State of Georgia, farmers, many of whom are widow women, are faced with losing their family farms because of this death tax. Employees of family businesses, many of whom are minorities, are at risk of losing their jobs because their employers are forced to pay the unfair and exorbitant death taxes levied on them. Funeral homes, weekly newspaper publishers, radio station owners, local dry cleaners, all are affected all across the demographic spectrum.

Mr. Speaker, although reasonable minds may differ on this issue, I believe that the death tax is politically misguided, morally unjustifiable, and downright un-American. Let us vote today to finally eliminate the death tax and return to the American people and their progeny the hard-earned fruits of their labor.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

Mr. Speaker, the gentleman from Florida said I want Members to give me a good reason why we should not repeal the estate tax. Let me give Members two good reasons: Afghanistan and Iraq.

The idea that we would be borrowing the money to pay for Afghanistan and Iraq when by just leaving this tax in place we could pay for those incursions and maybe get the Humvees to those men and women who are defending us every single day, or maybe get bullet-proof vests to them on time, borrowing the money.

The slogan of the moderate Republican Party is this: we are rich, and we are not going to take it any more. It is day after day in this institution, borrow money, run up the debt, run up the deficits and then with a straight face say, we are going to repeal a tax that affects 1 percent of the American people, just 1 percent of the American people.

They talk about industriousness and thrift and the work ethic. We see what happens to this money when it gets to the fourth and fifth generation of the same family: thrift is gone, the work ethic is gone. They quarrel about who is going to have enough money so they can enjoy the lavish ways of American life.

When I hear people say, as they have said recently in this debate, well it is

going to take care of the family farmer, they cannot find a farmer that is not taken care of in the legislation that is about to be proposed here. This legislation that they are proposing today cuts against the grain of what Thomas Payne reminded us in "Common Sense." He was concerned about hereditary power, the idea that the same people would control the wealth of America with the same families that would get to go to the same schools so the same families would have the same doctors and lawyers and accountants so the rest of America might not have a chance to participate. Whatever happened to the Republican Party in America.

Teddy Roosevelt said this was about thrift and hard work and honesty; they were blessed to be born in this country. That is what patriotism is. When we look at who enjoys the fruits of this money, the smallest number of American people, again the top 1 percent in America. Inherited wealth, that is not what America is based upon. We do not live in an aristocracy. Look what happened to Europe and the way they lag behind as they do. There is no sense in the House of Lords that you can advance yourself. Here in this House, the people's House, every walk of life is represented. Why do we just not establish a House of Lords after we get rid of the estate tax so then when we get rid of hereditary power, we will simply have the permanent state of aristocracy and privilege for the few.

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

Mr. Speaker, I would remind the gentleman from Massachusetts (Mr. NEAL) as he mentions Iraq and Afghanistan that the budgetary impact of H.R. 8 is really not felt until the year 2011 and beyond.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. HARRIS).

(Ms. HARRIS asked and was given permission to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, I rise in support of H.R. 8, which will finally free America's hard-working farmers and small business owners from the specter of the death tax.

Benjamin Franklin said: "In this world nothing is certain but death and taxes," but I doubt even the inventive Mr. FRANKLIN imagined the taxation of death itself.

Americans get taxed when they earn money. They get taxed again when they spend what is left, and government pursues them beyond the grave, devastating their relatives who must sell the family farm or liquidate the family business just to pay the taxes.

The impact of the death tax extends far beyond the pain it inflicts upon grieving families. The death tax distorts economic decisions on a massive scale. It punishes thrift. It reduces savings and investment, and it diverts capital away from job creation to tax avoidance.

The National Federation of Independent Businesses has estimated that the death tax will compel one-third of small business owners today to sell some or all of their business. The Center For the Study of Taxation found that 70 percent of all family businesses cannot survive the second generation and 87 percent do not make the third.

All of this wasted money, energy and over 100,000 jobs lost per year and for what, a tax that the Joint Economic Committee says costs just as much to collect as it generates in revenue.

Mr. Speaker, the opponents of H.R. 8 cannot provide any justification for the continued existence of this useless relic. It hurts the people it is intended to help, and it reduces stock in our economy by \$497 billion a year.

I urge my colleagues to drive the final nail in this coffin so 6 years from now Americans will not wake up to find that, like a vampire, this unfair tax has arisen from the dead to once again suck the blood from a lifetime of hard work and sacrifice.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. TANNER).

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

Mr. TANNER. Mr. Speaker, in 1997, Jennifer Dunn, a Republican from Washington, and I started this debate on the estate tax. At that time the country was in much different shape financially than it is today.

At that time, we raised the issue for estate tax relief because I thought then it was punitive. It had nothing to do with the theory that the gentleman from Massachusetts (Mr. NEAL) spoke so eloquently about, and that is to keep 3 percent or 1 percent of the people from owning 99 percent of our country.

□ 1500

We did not want to be like England where whoever got control of the land and money, and 1,450 still had it 26 generations later and people who were hardworking could not break through that ceiling because of the nobility that was enshrined in their tax code. That is why we have an estate tax.

But we raised that issue, and I voted for the bill that is being proposed today, but I can no longer vote for it. Let me tell you why. It is because, as I look in the faces of these young people, you are looking at a House, a Senate and an administration that has embarked since 2001 on the most radical, irresponsible financial riverboat gamble that this country has ever seen. There has been no political American leadership that has ever done what this group of people who currently hold the power of government here in Washington have done to this country.

Since April of 2001, in your name and mine, this government has borrowed \$1.2 trillion in hard money. What that means to us is that we have transferred, at only 4 percent interest, \$50

billion a year from programs like Social Security, like health care, like armor for our troops, from veterans, to health care, to education, all the things that will give the citizens of this country a chance, an opportunity to be whatever it is their God-given talents give them, we have transferred \$50 billion a year from that to interest. And you know what is worse? Eighty-four percent of this \$1.2 trillion has been borrowed from overseas. We are now sending more money overseas. Eighty-four percent of this interest check is going overseas.

Let me tell you something scary. A former official of the People's Bank of China, the country's central bank and now an economist in Hong Kong, was recently quoted as saying that the U.S. dollar is now at the mercy of Asian governments. Do you know what we are doing? We are mortgaging our country to foreign interests who do not see the world as we see it. It has got to stop, and it has got to stop sometime, and I for one am saying I want to stop it now.

In your name, we are borrowing at the rate of \$13,300 a second. This is staggering, mind numbing. \$48 million an hour. Since this debate started, in our names we have borrowed \$48 million and given the bill to those little children sitting up there. \$1 billion a day.

Do you know how much \$1 billion is? If you take thousand-dollar bills and stack them up like that, to get to a million dollars it is a foot high; to get to a billion dollars, it is as high as the Empire State Building; and to get to a trillion dollars, which is what has been borrowed in the last 46 months in your name, it is a thousand times as high as the Empire State Building, one thousand dollar bills like this.

We are facing a financial Armageddon. What we have done has created a financial vulnerability vis-a-vis the rest of world that is every bit as big a security interest as anything else we are going to face in the future. I just hope that someday soon that some sense will come to this place about how we are handling or mishandling your money.

Mr. HULSHOF. Mr. Speaker, I certainly respect my friend from Tennessee and I trust he will bring that passion to the floor when we have our discussion on our spending bills.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. MCCAUL), a newly elected Member.

Mr. MCCAUL of Texas. Mr. Speaker, today I rise in support of permanently repealing the death tax. I would like to thank the gentleman from Missouri for his leadership on this issue and his good timing, for in 2 days the tax man cometh. As I look at these young people in the gallery today, I say to them, this bill is about you. It is about the youth in this country. For too long, the Federal Government has been taxing working Americans, not once, not twice, but three times, on their hard-

earned money. When they earn it, the government takes an income tax. When they spend it, the government takes a sales tax. And finally, even when they die, the government takes a tax from the grave.

In addition to being bad policy, the death tax is morally wrong. It confiscates private property and is an unbearable cost to small businesses, ranchers and farmers, which is precisely why the Farm Bureau supports this bill.

I could tell you many stories about families that were forced to borrow large sums of money or sell off or parcel out their farms or businesses, dividing their families. I could tell you about the Berdolls from Austin, Texas, in my district who, after paying off a 30-year mortgage, spent 20 more years paying this unfair tax burden. They literally paid for their farm twice.

The names may change, but the story is the same. It is time we removed this financial burden from the backs of those pursuing the American dream. We must guarantee that people do not have to suffer the same hardships as the Berdolls.

I urge my colleagues to support this important measure.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members should not address persons in the gallery, and the Chair would remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I rise in opposition to this latest Republican assault on Social Security and on fiscal sanity. At a time of apparently unending war and the largest budget deficits in American history, our Republican colleagues are intent on solving a crisis that does not exist.

As the President wastes millions of our taxpayer dollars crisscrossing this country to declare that there is no Social Security trust fund and questioning the full faith and credit of the Federal Government, his Republican allies here seem intent on actually making his dire and inaccurate statements a self-fulfilling prophecy. Today, what they propose is to borrow from the Social Security trust fund and to borrow from the Medicare trust fund in order to give more tax breaks to the richest one-tenth of 1 percent of the people in this country.

That is borrowing from Social Security for purposes that have nothing to do with the Social Security system because they think some rich folks in this country do not have wallets that are fat enough. It is taking from the hard-working employees and employers who are paying their Social Security money and transferring that wealth over to the richest one-tenth of 1 percent.

They call it the death tax? I think that is a good name. If they keep pursuing bills like this, it will be the death of Social Security and Medicare, as sure as I am standing here. Like most Democrats, I have voted not once but a number of times to repeal the estate tax for most Americans and to see that it is done right away, now, not postponing it for years as the Republicans propose to do.

There is another Democratic substitute coming out today that is going to exempt 99.7 percent of all estates from this tax, and only cover the richest .3 percent of the wealthiest estates in this country. That means you are not going to have a small business in East Austin or West McAllen or a family farm in Karnes County that is covered if they are even covered now, which the vast majority of them are not.

Why do they keep talking about family farms since it is irrelevant to this debate? They keep talking about the guy in the pickup who is working extra hours to try to make ends meet. They keep talking about the little family business that with good reason wants to be able to pass that enterprise on to the next generation of that hard-working family.

The reason they talk about those folks is that Steve Forbes's family is not quite as sympathetic. The family of Enrons Ken Lay, not quite as sympathetic. They cannot defend transferring money from the Social Security and Medicare trust fund to Ken Lay's family, to Steve Forbes's family, to Ross Perot's family, because it is totally indefensible. Their goal is to ensure that the richest of the rich are rewarded, as if they have not rewarded them enough for the last few years that they have controlled this Congress.

Social Security is not in crisis today, nor is Medicare, but if you keep passing bills that drain \$750 billion from the Treasury at the very time more people are retiring, you will have a crisis. It was back almost a century ago when a Republican, a fellow named Teddy Roosevelt, said that "inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our government." It is still inconsistent. Would that we had even one Teddy Roosevelt Republican today to put a stop to this nonsense.

Mr. HULSHOF. Mr. Speaker, I yield myself such time as he may consume to the gentleman from Alabama (Mr. CRAMER), my cosponsor of H.R. 8.

Mr. CRAMER. I thank my friend from Missouri for yielding me this time.

Mr. Speaker, I think a number of important points have been made today, but I rise today in strong support of this bill and in opposition to the estate tax. Some of the previous speakers on this side of the aisle have made reference to the fact that a number of us on the Democratic side have worked

over this issue since actually the early nineties. I know the gentleman's predecessor Jennifer Dunn and I and a number of people from this side of the aisle had worked hard together to look for a commonsense way that we could end this burden which, in my opinion, is an extreme burden on the small business community and on the farm community.

I do not know about the other speakers, but when I go back to my district and I am mixing and mingling with the folks where they eat breakfast or where they have dinner or where they gather, it is my farm families that bring this issue up. In north Alabama where I come from, we have some of the most productive farm families of any district in the country. For generations, they have struggled and used tax lawyers and tax strategies to try to find a way to effectively pass that farm on to the next generation that we want to continue engaging in that farm business. But they are overwhelmed by this issue.

In 2001, we did a good step, not a great step but a good step. We passed some temporary relief. But the reality is that if we do not permanently repeal the death tax, you have almost got to time your death for the benefit of your family. That is outrageous. So let us make sure that we bury this issue once and for all.

According to the Congressional Research Service, estates that included farm or business assets represented 42.5 percent of the 30,000 plus taxable estate tax returns filed in 2003. It is not fair to say that this is just a rich person's issue, that the estate tax only affects the wealthy, because, according to that same Congressional Research Service, estates over \$5 million accounted for only 6.8 percent of taxable estates.

In this day and time, assets are accumulated in a different way than they were 20 years ago, 25 years ago, 30 years ago or even more than that. For the benefit of those farmers, for those small manufacturers, for the local car dealers, the independent car dealers, the realtors, the funeral directors, the grocers, the family restaurant owners, the florists, the convenience store owners and many others, let us end this unfair tax burden.

I urge the Members to support this.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

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

Mr. TIERNEY. Mr. Speaker, I rise to register my opposition to the total repeal of the estate tax. If we want to talk about values, as so many people did in the last couple of months leading up to this, let us talk about the value of supporting one's family and supporting one's community. Let us talk about the values of responsibility and fairness. They dictate that everybody pay his or her or its corporate fair share.

Millionaires and multinational corporations benefit the most from our taxes. We talk about what our taxes go for. There are dues that belong to society. Eighty percent of court cases are commercial in nature. Businesses, mostly large ones. Air traffic controllers, paid for by our taxes, they mostly support business travel back and forth. Our Coast Guard, our Navy protecting our shipping lanes, bridges and highways, making products safe to go back and forth as well as people. The Securities and Exchange Commission is our tax money trying to make large corporations behave and treat each other well instead of cheating each other. Sometimes it actually works.

□ 1515

The fact of the matter is that this bill absolves the top three-tenths of 1 percent from their responsibility to pay their fair share. And I say the top three-tenths of 1 percent because the Democratic alternative would exclude the first \$3.5 million, or \$7 million for a couple. So much for the argument of small farms and small businesses. They would not pay a dime on the first \$7 million and only pay a portion of anything above that.

The fact of the matter is that most of the money that is going to be taxed on that top three-tenths of 1 percent was not earned money. That is money they got from tax-free investments. It is money they got by appreciation, just the value of that property increasing over time. They did not earn it. To compensate for what these members of our society will not be paying as their fair share, small businesses, the people that go out and create payrolls, will have to pay more. The families that go out and work every day for a living, they will have to pay more than their fair share.

And all the while this is going on, we are not even paying America's bills. This tax is going to be \$290 billion off the top at a time when our debt is larger than it has ever been. We are running annual deficits that are at historic proportions. No family and no small business would ever operate this way.

Mr. Speaker, let me just close by saying they are robbing us of opportunity and prosperity and community by attacking our education and our health, our clean water, and our clean air. All of this because they want to give America's princes and princesses a little break at the top three-tenths of 1 percent. Let us let everybody pay their fair share.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN).

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

Mr. AKIN. Mr. Speaker, about 50 percent of Americans or so are employed in small businesses, and obviously if something is employing almost half of Americans that are working, that

should be a priority. And one can imagine my surprise the other day to find out about a guy who drove up to a bank in an old Ford, about a 15-year-old Ford pickup truck, with rust holes in the floor. He went into that bank and he took out a loan for \$2 million. And the head of the bank was inquiring of the guy that is the accountant that handles our books that I have to do as a Congressman. He said, Why in the world did this guy have to take a \$2 million loan out? And it particularly seemed out of place with this guy with his old rusty holes in his pickup truck.

He said, His father just died and they have to pay the estate tax on the farm.

I had heard stories like that before, but there it was right in front of me.

So what this bill is seeking to do is to try to make it possible that we do not destroy farms and small businesses that employ close to half the people that have jobs in our country; and that seems to be only reasonable. And yet I am hearing the Democrats saying over here that they are all upset because we have already taxed a dollar the first time the guy earns it; then we are going to tax him again on sales tax and other things he buys, and now it is not fair to tax a dollar the third time it comes around.

It just seems to me we do not want to destroy the businesses and farms. What we want to do is make those jobs available, and we want to get rid of this death tax. Just dying should not be a reason for taxes.

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

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I am cosponsor of the Death Tax Repeal Permanency Act of 2005 because this tax is an unfair burden on American families. The death tax puts many small businesses, those run predominantly by families, at a great financial disadvantage.

According to the Small Business Administration, in 2001 in the Dayton, Ohio, metro area, which is in my district, nearly 62,000 people worked for businesses that employ less than 20 people.

Three of my constituents, Jenell Ross; her mother, Norma; and her brother Rob, run a small business, Ross Motor Cars in Centerville, Ohio. When Jenell's father unexpectedly passed away in 1997, the Ross family received a tax bill for nearly half the value of their family business. I would like to tell their story in Jenell Ross's words. She says, "30 years ago my father took the chance of a lifetime. Determined to achieve the American Dream, he invested everything he had into Ross Motor Cars. Like a lot of people, my father thought he would live forever.

"He didn't.

"When he died unexpectedly in 1997, the overwhelming responsibility of keeping the family business afloat fell squarely" to us. We could never have

prepared ourselves for the shock of receiving a tax bill nearly half the value of the dealership, where nearly 90 percent" of the assets were "tied up in nonliquid assets such as inventory, equipment, buildings, and land.

"Does the death tax impact family-run small businesses? Yes. My family is still experiencing its devastating effects firsthand," nearly 8 years later.

It is time to repeal the death tax once and for all, and I urge my fellow constituents and Members to support the bill.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I want to commend the gentleman from Missouri (Mr. HULSHOF), the gentleman from Alabama (Mr. CRAMER), the gentleman from California (Mr. COX), and all those who have worked so hard to get rid of this onerous burden on a number of American citizens. The Federal death tax is a job killer.

I represent the Fifth District of Virginia. We have a number of counties and jurisdictions that focus on manufacturing. Many of our smaller manufacturers have had to sell out to larger manufacturers; and as a result, we have double-digit unemployment in a number of jurisdictions that used to be the home to small manufacturers. A factor in their selling out was the Federal death tax because they would not have the cash to pay when death knocked on the door. If we pass this bill, we will help the job situation in those types of jurisdictions in the United States.

I hear the other side say that this is a bonanza and a budget breaker because we will not be getting the revenue from the Federal death tax. Let me tell the Members under the current law the really rich in this country trust and foundation themselves out of the Federal estate tax. I believe that Mr. Gates, the owner of Microsoft, is a proponent of keeping the Federal death tax. He has got a father that is in charge of his foundation. But many small farmers and average business persons are not able to have the cash to set up the trusts and the foundations that will get themselves out of the Federal estate tax. And I predict that if we pass this bill, the incentive to set up those trusts and foundations that avoid taxes will not be there and in the long run the Treasury of the United States will benefit because we will still get the capital gains tax when the assets are sold.

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

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, this bill shows the courage to boldly go where none have gone before, to levels of public debt and levels of trade deficits that no nation has ever tried, higher than any have dared.

We have a dollar that is dependent upon our fiscal markets, a trade deficit

that grows every year; and the result of this bill and its twin cousins and related Siamese twins, the other parts of the Republican tax and spend or borrow and spend policy, will be a declining dollar and a declining economy or a dollar that crashes and an economy that crashes. And this courage is all summoned up on behalf of the one quarter of 1 percent of American families it is designed to help.

We require the men and women in uniform to risk the ultimate sacrifice; and from our richest families, we say zero sacrifice under the estate tax. Shame.

Mr. STARK. Mr. Speaker, I yield the balance of my time to the gentleman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for his leadership and his recognition on this very important legislation that is before us today. I am very proud of the work of the gentleman from North Dakota (Mr. POMEROY), our Member of Congress, a very distinguished member of the Committee on Ways and Means, for his initiative and leadership in presenting to the Congress today an alternative that makes sense to the American people, that is fair to America's families.

The gentleman from North Dakota (Mr. POMEROY) speaks with authority on the issues that impact rural America, small business, and America's families and certainly America's family farms. He has their interests at heart. He knows firsthand what their challenges are. That is what makes his proposal so wise, and we all appreciate his leadership.

Mr. Speaker, in the 20th century, in the early part of the 20th century, our country made a decision to honor our American value of fairness by moving forward toward a progressive system of taxation. But under 10 years of Republican rule, this Congress has consistently passed legislation that has moved away from a progressive Tax Code. Republican tax policies have rewarded wealth over work. In its analysis of the President's budget, the nonpartisan Congressional Budget Office found that the tax rate on wage income is nearly twice the rate of capital income, unearned income. And now today Republicans have come to the floor with an estate tax bill continuing their harmful approach.

The Republican estate tax bill again rewards extreme wealth. The Republican approach would hurt more people than it helps by increasing taxes and administrative burdens on more than 71,000 estates. And it comes at a staggering cost of nearly \$1 trillion over 10 years once it takes full effect.

Democrats want to be fair to all Americans, and we support being able to pass a better life on to our children and our grandchildren. But we cannot support putting the luxuries of the super-rich before the needs of America's families. The difference between the Democratic and Republican bills is that Democrats take a more respon-

sible, indeed, a responsible approach that gives immediate tax relief to small businesses and farmers across the country.

The Pomeroy substitute would provide relief to 99.7 percent of estates in America, 99.7 percent; and .3 percent of estates would not be covered under the bill. That is a small percentage, but a huge amount of money being deprived from the National Treasury. The savings achieved by pursuing the more fair and targeted approach put forth by the gentleman from North Dakota (Mr. POMEROY) would cover about one half of the long-term shortfall facing Social Security.

Think of it: if we pass the gentleman from North Dakota's (Mr. POMEROY) bill, the savings would cover one half of the shortfall in Social Security down the road. It would strengthen Social Security for generations to come. That is the choice we are facing today. Do we want to put the wealthiest .3 percent of estate holders ahead of millions of American workers who have earned their Social Security benefits with a lifetime of work? Do we want to continue reckless Republican tax policies or return to a fair system of taxation?

This is a remarkable choice before us, and I hope that the American people can avail themselves of the information to understand what is at stake here. Basically, it all comes back to our deficit, to our budget, and whether we have fiscal soundness in our budget or not. What the Republicans are proposing is saying to average working families in America every day they go to work, and every paycheck money is taken from their paycheck for Social Security. What the Republicans are doing today is putting their hand into that pot and saying we are taking that money and we are going to subsidize the super-rich in our country, the largest, wealthiest estates in our country, .3 percent.

□ 1530

Mind you, the gentleman from North Dakota (Mr. POMEROY) has covered 99.7 percent, which is most, of course, 99.7 percent of the people in America. So anyone listening to this is not, odds are, affected in any positive way by what the Republicans are proposing. In fact, they will be hurt because of what it does to Social Security and what it does in terms of capital gains for over 71,000 families in America.

So I think the choice should be clear, to choose to reward work. We respect wealth. The creation of wealth is important to our economy. But that does not mean we take money from working families to give more money to the wealthiest families in America. And this at the same time as the tax cuts that the administration has proposed to make permanent, that would give people making over \$1 million a year over \$125,000 in tax cuts.

Who are we here to represent? This is the reverse Robin Hood. We are taking money from the middle class and we

are giving it to the super rich, and not only the super rich but the super, super, super rich.

So let us come down and vote for America's workers, let us come down in favor of America's families, and let us recognize that everybody, the wealthiest as well as those not so wealthy, everyone in America benefits when we have fairness in our Tax Code, where we have balance in our budget in terms of our values and in terms of our fiscal responsibility.

I urge our colleagues to support the very responsible Pomeroy resolution and vote no on the irresponsible and reckless Republican proposal.

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

Mr. Speaker, I appreciate in large measure the tone of the debate. What I would say to the gentlewoman who just spoke and to others who raised the red herring of Social Security is to remind folks, first of all, the Federal receipts from the Federal death tax represent less than 1.5 percent of all revenues, first of all; and, secondly, that none of the income tax money generated from the estate tax goes to Social Security for the trust funds, and eliminating the tax in no way will affect or impact current Social Security benefits. Not one bit.

Now, I do want to respond. I heard, I think, the gentleman from Massachusetts earlier say that really there has been no policy justification for keeping this tax, other than we need the money. In fact, I think one gentleman said something, from Massachusetts, about we need to pay our fair share.

Well, let me just ask you to consider your day. When you woke up this morning, if you hit the snooze button on your electric alarm clock, you are paying an electric tax. When you jumped into the shower this morning, you paid a water tax. If you saw the gentleman from North Dakota (Mr. POMEROY) and I on C-SPAN debating this issue this morning, you are paying a cable TV tax. When you drove to work this morning, you are paying a gasoline tax. If you stopped for a cup of coffee, you paid a sales tax. If you used the telephone at all today, you are paying a telephone tax. And, of course, when you are at work, your wages are subject to a payroll tax that does go into Social Security, payroll taxes that do pay for Medicare, not to mention your income taxes. If you drive home to your home and you are lucky enough and fortunate enough to own a home, you are probably paying a local property tax.

When you kiss your spouse good night, you think that is free. No, leave it to the Federal Government to continue to have this thing called the marriage tax.

And, yes, if you scrape and invest and save and you build a family business, have the audacity to pursue the American dream, the Federal Government is there with its hand out saying give us 45 percent of the value of your family business.

Now I have heard from my colleagues on the other side who say that family farms are not affected. Well, then let me tell you a very quick personal story, a story of a farm family in Missouri, a young married couple who in 1956 left Portageville, Missouri, in the district of the gentlewoman from Missouri (Mrs. EMERSON), with \$1,000 in their pocket, and that was going to be the stake that they had. It happened that the woman was an expectant mother with her first child and, as it turned out, her only child.

That married couple happened to be my parents, and over the last 2½ years I have had the unfortunate reality that obviously death is inevitable, and I have had the unfortunate experience in our family of having both my father pass away in late 2002 and my mother one year ago.

I do not mind sharing with you, a 514 acre farm, a modest life insurance policy, the house that I grew up in, a combine, three tractors and some irrigation equipment, and that is it. And I am sitting across the mahogany desk from our long-time family accountant with the adding machine with a tape on it, and he is plugging in an arbitrary value for these assets that my parents invested their soul into. And I am breaking out into a cold sweat wondering whether or not this business that they built and wanted to pass on is going to fall above an arbitrary line or below an arbitrary line that we in Congress have set.

Now we did not have to pay the tax, but 14 days ago I had the requirement of filling out the form and paying the \$2,000 accountant fee; and, again, I do not quarrel with that. But, Mr. Speaker, the death of a family member should not be a taxable event, period.

Mr. Speaker, I urge my colleagues to vote for H.R. 8.

Mr. HASTERT. Mr. Speaker, we come to the floor today to address an issue of tax fairness. You see, no matter what kind of spin our friends on the other side of the aisle try to use—the death tax simply isn't fair. It's an unfair burden that the government has placed on families and small business owners. I've called it a cancer—because it's slowly destroying family farms and businesses across the nation.

Many of our small family businesses are wrapped up in a loved one's estate. And when family members are left with a huge tax bill, it hits them hard. I've heard countless stories from families who have had to sell off a chunk of the family farm just to handle their tax burden. Our friends on the other side of the aisle say that this is too costly and it's bad for the budget. I say it's too costly not to act.

This tax is destroying small businesses. And we all know they're the real job creators in our economy. What kind of nation have we become when a small family farmer can't afford to pass the business on to his children?

Look at the facts.

70 percent of family businesses do not survive the second generation,

87 percent do not make it to the third generation.

Many of these businesses are going belly-up because of the Death Tax.

We all realize that the government must have revenues, and that taxes are a necessary evil. But this tax isn't necessary; it's just evil—because it takes away the American Dream from too many American families.

It's time we give families a real chance at the American Dream.

We need to tell the IRS to stop lurking around a grieving family's pockets. Death is not a taxable event.

It's time we let the Death Tax die.

Mr. REYNOLDS. Mr. Speaker, the issue before us today is certainly not a new on new one. During the past three Congresses, the House has voted repeatedly in a bipartisan fashion to eliminate the death tax. And today, once again, we have the opportunity to bury the death tax once and for all.

The death tax punishes savings, thrift, and hard work among American families. Small businesses and farmers, in particular, are unfairly penalized for their blood, sweat and tears—paying taxes on already-taxed assets. Instead of investing money on productive measures such as creating new jobs or purchasing new equipment, businesses and farms are forced to divert their earnings to tax accountants and lawyers just to prepare their estates. All too often, those families are literally forced to sell the family farm or business just to payoff their death taxes.

Equally disturbing is the fact that the death tax actually raises relatively little revenue for the federal government. In fact, some studies have found that it may actually cost the government and taxpayers more in administrative and compliance costs than it raises in revenue.

Mr. Speaker, my rural and suburban district in western New York is home to countless small businesses and family farms. They're owned by hard-working families who pay their taxes, create jobs and contribute not only to the quality of life in their communities, but to this nation's rich heritage.

Is it so much to ask that they be able to pass on the fruits of their labor—their small business or their family farm—to their children? Must Uncle Sam continue to play the Grim Reaper? The fact is that they paid their taxes in life—on every acre sown, on every product sold, and on every dollar earned. They shouldn't be taxed in death, too.

Mr. Speaker, it's time to bury the death tax once and for all. I commend Congressman HULSHOF for introducing this crucial legislation and Chairman THOMAS for his continued leadership on this issue.

Mr. MACK. Mr. Speaker, I rise today to express my strong support of the Death Tax Repeal Permanency Act of 2005. As a cosponsor of this important legislation, I think it is absurd for the federal government to continue punishing the families through double-taxation. Rather than taxing people when they die, we should be encouraging families to save for the future through hard-work and sound financial planning.

The Death Tax is one of the most burdensome and counterproductive of all taxes. Small businesses create two-thirds of all jobs in the United States, and 40 percent of GDP in the United States is generated by small businesses. When the owner of a small family business passes away, this tax causes families and small business owners severe financial hardship, often to the point that the business must be liquidated.

It is offensive that the government taxes someone all their life then taxes them one last time when they die. Families should never have to visit the IRS and the funeral home on the same day. A permanent repeal is good for small businesses, family farmers, and the next generation of entrepreneurs.

Mr. Speaker, I urge my colleagues to vote for the repeal of the Death Tax.

Mr. BOUSTANY. Mr. Speaker, I strongly support H.R. 8, the Death Tax Repeal Permanency Act of 2005, and encourage my colleagues to pass this important legislation. This vital legislation will permanently repeal the estate tax, a tax that is unjust, inefficient, and harmful to small businesses, the backbone of our economy. Repeal of the Death Tax will create a system that is more equitable and more productive for our economy.

The Death Tax is a burden on our economy that costs the country between 170,000 and 250,000 jobs every year. In Louisiana, our family-owned farms have been faced with decreasing profitability and in many instances the Death Tax is an additional burden that they cannot carry; this tax is a leading cause of the dissolution for thousands of family-run businesses across the country. It also diverts resources from investment in capital, slowing research and development at a time when our country is facing growing competition around the world. We cannot afford to continue discouraging productivity and innovation.

Furthermore, the death tax is inefficient. Since the 1930's, revenue from the tax has fallen steadily as a percentage of total federal revenue. Compliance costs each year can be almost as high as the tax itself, around \$22 billion in 2003; thus every dollar raised by the death tax is \$2 that could have been invested in capital and new jobs.

The economic damage of the Death Tax is reason enough for its repeal, but it is also fundamentally unjust. The rate of taxation is as high as 47%, and this is in addition to the taxes that were already paid on the assets subject to this tax. The Death Tax also discourages hard work and savings and instead encourages large-scale consumption. At a time when we should and need to be encouraging individuals to save for their future, we cannot continue to send this mixed message.

By repealing the Death Tax we will create a tax policy that is more efficient, more equitable and more productive for our economy. I urge Congress to act today to permanently repeal the Death Tax and ensure that our future generations will be able to carry on the heritage of our forefathers.

Mr. CANTOR. Mr. Speaker, I rise today in support of the permanent repeal of the death tax. To put it simply, the death tax is just wrong. It is wrong to encourage people to work hard all their life, only to have the government reap the benefits when they die. It is wrong to levy hefty taxes against families of thriving small business owners just because their parents were successful. It is wrong to stifle economic growth by forcing small businesses to close because of an overbearing tax bill delivered by a greedy Uncle Sam.

Mr. Speaker, our Republican majority stands firmly against double taxation on working families. Taxes have already been paid on the assets subject to additional taxation under the death tax. I am confident that Americans are far better equipped than politicians to decide how to best spend their hard earned money.

It is time for Congress to let important fiscal decisions to be made where they should be, at the kitchen table, not at the tax table.

Let's repeal this unjust tax and empower American working families who know best how to make the right decisions for themselves.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 8, the Death Tax Repeal Permanency Act, although the base bill does not address the estate tax in the manner I believe to be most prudent.

In 2003, Congressman Doug Bereuter and I introduced the Estate Tax Relief Act, which would increase the estate tax exclusion to \$10 million and lower the top rate to the level as the top income tax rate (currently 35 percent). I think this is a much better solution than total repeal.

Because estate and gift taxes have had devastating effects on small businesses—many of which are forced to liquidate assets simply to pay taxes ranging from 35 to 55 percent of the value of the business—I think we need to provide significant relief in this area. My preference, however, is to reduce estate taxes without entirely eliminating them.

In the last Congress, I voted for today's base bill because if it is not enacted the estate tax, which is being phased-out over a period between 2001 and 2010, will return in 2011 with an exemption of just \$675,000 and a top rate of 55 percent.

While my first choice would be to significantly increase the exclusion and lower the top rate, I believe full repeal is preferable to the return of this onerous tax.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 8, legislation that would permanently repeal the Death Tax, a tax that haunts millions of small business owners and farmers nationwide. The last thing the federal government should be doing is taking more money from small business owners and farmers, and curtailing further economic growth. They are the backbone that drives our economy forward. I commend Mr. HULSHOF for his leadership on this issue and praise his vision to continue lowering the federal tax burden.

Throughout my twenty-two years in Congress, I have proudly voted for every major tax cut initiative considered by the House. Cutting taxes is one of my highest priorities. I remain convinced that letting Americans keep more of what they earn will help stimulate the economy and create more jobs. People will not hide this much-needed relief under their mattress or store it in their closet; instead they will purchase necessary goods and services. An increased demand for these goods and services will require more employees; therefore, providing incentives for businesses to hire more workers—putting unemployed Americans back on the job and providing a framework for long-term economic growth.

The key to growing our economy is simple—allow Americans to keep more of their own money to spend, save, and invest. My favorite four-letter word—don't worry, it's a four letter word that can be used in polite company—is JOBS. Permanently repealing the death tax will create new jobs across the nation.

Cutting taxes is not unprecedented. Since 2001, Congress has repeatedly passed legislation, which I'm proud to say I voted for, to lower the federal tax burden. For example, we voted to extend relief from the marriage penalty tax, a burdensome tax on married couples

for doing nothing more than saying "I do." We also voted to extend the Alternative Minimum Tax reforms (AMT), which is the right step toward making sure the AMT applies only to those people it was designed to cover, not working families just trying to make ends meet. We also supported a measure to extend the 10% bracket to lower taxes for hard working, low-income families. Finally, we voted to extend the \$1,000 child tax credit.

It only makes sense to take the next step and permanently repeal the Death Tax. I urge my colleagues to join me in supporting H.R. 8, and put an end to this unfair, unjust, and inefficient burden on our economy.

Mr. HONDA. Mr. Speaker, I rise in opposition to H.R. 8, legislation that unwisely imperils our Nation's financial security in order to advance the interests of an elite few.

Since my election to Congress, I have consistently advocated for reasonable estate tax reform. Estate tax reform is extremely important for all the people in the 15th District of California. High real estate values and generous stock option packages have pushed many estates over exemption limits. As a result, too many of my Santa Clara County constituents have been burdened by an estate tax that was originally written to affect only the very wealthiest Americans. The estate tax needs to be modified to protect hardworking Americans and their heirs.

In keeping with this spirit, I intend to support a Democratic alternative to H.R. 8 that will benefit almost all Americans. Offered by Representative EARL POMEROY, the Democratic substitute will increase the estate tax exemption to \$3 million for individuals and \$6 million for married couples effective January 1, 2006 with a scheduled increase in 2009. Under this plan, 99.7 percent of all estates would have no estate tax liability.

The Republican majority has put forward a more expensive plan to benefit the three-tenths of one percent not covered by the Democratic substitute. Their plan comes at a significant cost. Once fully in effect, H.R. 8 will cost \$1 trillion over 10 years. This astronomical price tag will exacerbate record Federal deficits and undermine our Nation's ability to strengthen key Federal priorities, including Social Security, Medicare, education programs and veterans health care.

H.R. 8 may also harm more taxpayers than it would help. Current income tax law provides for a "step-up" in the basis of an inherited asset to its fair market value at the time of decedent's death. When the heir sells the asset, the capital gain for income tax purposes is measured by the difference between the heir's selling price and the stepped-up basis of the asset. H.R. 8 repeals the step-up basis and substitutes carryover basis rules in which the capital gain would be measured by the difference between heir's selling price and the asset's cost at the time when the decedent acquired it. As a result, all estates with gross assets over \$1.3 million would face reporting requirements and tax liabilities potentially more burdensome than under current law.

While I am deeply concerned with the problems surrounding the estate tax, and believe that substantial, long-term reform is needed, permanent repeal for all estates is not necessary to resolve these issues. Given our nation's challenges, I cannot support the Republican's fiscally irresponsible approach to this issue. I urge my colleagues to oppose H.R. 8.



Mr. NEUGEBAUER. Mr. Speaker, I rise today as a cosponsor of H.R. 8 to express my strong support for this important legislation to permanently repeal the estate or "Death" tax.

The estate tax is one of the most unpopular, destructive taxes collected by the Federal Government. It forces many small businesses and farms to dissolve, undermines incentives for work, savings, and investment, and leads to unnecessary development of environmentally sensitive land. By permanently repealing the estate tax, we would be eliminating a cruel tax that devalues the hard work and confiscates the savings of some of our most productive citizens.

As we all know, the estate tax is scheduled to be totally repealed on January 1, 2010; unfortunately, this repeal will sunset on December 31, 2010. At that point, unless the Congress acts, the estate tax will revert to the 2001 level. As no one I know can accurately guess which year they might pass on to the hereafter, only one year of complete relief of the estate tax is not only cynical—it's bad policy. The uncertainty of not knowing whether or not the death tax will really be repealed, makes it difficult for American taxpayers to make plans for their futures, their spouses' futures, and the futures of their children. Additionally, the tax increase that would result if Congress fails to act would be entirely unfair to many of our constituents.

On the one hand, I am pleased that the House is once again taking action today to rid our Tax Code of this punitive measure. But we've done this several times in the past and each time it has gotten bogged down in the other body. Let's hope we don't have to meet again to do what should have been done years ago. Let's do the right thing today. Let's finally and irrevocably repeal the death tax.

Ms. FOXX. Mr. Speaker, today I voice my strong support for the Death Tax Repeal Permanency Act of 2005.

It is imperative we pass this very important legislation. The Death Tax is an unreasonable and unfair burden on thousands of American families, small businesses, and family farms.

The Death Tax is the largest threat to the vitality of family-owned businesses and farms because most of their owners have the entire value of their business or farm in their estate. The Federal Government currently receives nearly half of an estate when the owner passes. As a result, more than two-thirds of family businesses do not survive the second generation and nearly 90 percent do not make it to the third generation. So much for the American dream. Rather than encouraging people to build their own livelihoods, the Death Tax discourages hard work and savings.

According to the Heritage Foundation, the Death Tax costs our country up to 250,000 jobs each year. By permanently abolishing this tax, we could add more than 100,000 jobs per year.

As my colleague, Representative SAM JOHNSON of Texas, said: Americans receive a birth certificate when they are born, a marriage license when they are wed, and a tax bill when they die. This is a disgrace. I encourage my colleagues to vote "yes" for the Death Tax Repeal Permanency Act of 2005.

Mr. JEFFERSON. Mr. Speaker, Benjamin Franklin noted over 200 years ago that "in this world nothing can be said to be certain, except death and taxes." Unfortunately, the con-

vergence of these two inescapable events, in the form of the Federal estate tax, results in a number of destructive outcomes in terms of slower economic growth, reduced social mobility, and wasted productive activity. Moreover, the costs imposed by the estate tax far outweigh any benefits that the tax might produce. For these reasons, among others, I urge my colleagues to join with me in support of permanent repeal of the Federal estate tax.

The estate tax has been enacted four times in our Nation's history—each time in response to the exigent financial straits deriving from war. In three of those instances (1797–1802, 1862–70, and 1898–1902), the estate tax was repealed shortly thereafter. Most recently, the estate tax was reintroduced during World War I (1916) and has existed ever since. What was meant to bring short-term budgetary relief has become a permanent burden on America's farmers, small business owners and families.

Some observers might believe that the estate tax is free from serious controversy. For example, it is often claimed that the tax only falls on the "rich" and thus serves to reduce income inequality. Other supporters of the estate tax point to the \$22 billion in tax revenues for 2003, or to the incentive for charitable bequests. Nonetheless, there are many reasons to question the value of taxing the accumulated savings of productive, entrepreneurial citizens. Not the least of these reasons is the widely-held belief that families who work hard and accumulate savings should not be punished for sound budgeting. Additionally, it is unclear whether the estate tax raises any revenue at all, since most if not all of its receipts are offset by losses under the income tax.

The freedom to attain prosperity and accumulate wealth is the basis of the "American dream." We are taught that through hard work we can achieve that dream and, God willing, pass it on to our children. Unfortunately, for many the estate tax turns that dream into a nightmare. The current tax treatment of a person's life accumulations is so onerous that when one dies, the children are often forced to turn over half of their inheritance to the Federal Government. The estate tax, which is imposed at an alarming 45 to 47 percent rate, is higher than in any other industrialized nation in the world except Japan. Thus, many families must watch their loved one's legacy being snatched away by the Federal Government at an agonizing time. This is tragically wrong and nullifies the hard work of those who have passed on.

In the minority community there are numerous examples of the injurious effects of the estate tax. The Chicago Daily Defender—the oldest African American-owned daily newspaper in the United States—is a good example of the unique problem presented for minority families. It was forced into bankruptcy due to financial burdens imposed by the estate tax. But, beyond that, the questions were—was the Chicago Defender family forced to sell, could a minority owner be found to purchase it, or would it become a white-owned asset, reducing the overall wealth of the African American community?

On a smaller scale, another potential victim, a storeowner named Leonard L. Harris who is a first generation owner of Chatham Food Center on the South Side of Chicago is frightened that all the work and value he has put into his business will be for naught because it

will be stripped from his two sons. According to Mr. Harris, "My focus has been putting my earnings back into growing the business. For this reason, cash resources to pay federal estate taxes, based on the way valuation is made, would force my family to sell the store in order to pay the IRS within 9 months of my death. Our yearly earnings would not cover the payment of such a high tax. I should know. I started my career as a CPA." These two stories are not isolated.

According to the Life Insurance Marketing Research Association, less than half of all family-owned businesses survive the death of a founder and only about 5 percent survive to the third generation.

Another recent study found the following:

Eight out of ten minority business owners questioned believe the Federal estate tax is unfair.

Only one minority business owner in three has been able to take any steps whatsoever to prepare for the ramifications of the estate tax.

One in four believes that his or her heirs will be forced to sell off at least part of their businesses to pay the estate tax liability.

Fully half the respondents already know a minority-owned business that has had trouble paying the tax, including some that have been forced to liquidate.

Those few minority-owned businesses that have been able to take steps to reduce their estate tax liability complain that it has detracted from their ability to meet business objectives by channeling time, energy and resources away from productive endeavors.

Many of my colleagues who are proponents of the estate tax contend that the tax adds progressivity to the Tax Code and provides needed tax revenue. They argue that the estate tax falls on wealthier and higher income individuals and increases the total tax paid by this segment of the population relative to their income. This helps offset the regressivity of payroll taxes and excise taxes, which fall more heavily on low-income groups relative to their income. They also argue that increasing the unified credit to \$4, \$5, \$6 or \$7 million would remove small family-owned businesses and farms from the harsh impact of the estate tax.

I share my colleagues concerns about protecting the tax base and ensuring that our Tax Code remains progressive. However, I find these arguments in support of the estate tax unconvincing in the face of substantial evidence otherwise.

First, there is no clear evidence that the estate tax is progressive or that larger estates are paying a greater portion of the tax. Wealthier members of our society are able to reduce and or eliminate the impact of the estate tax by stuffing money away here and there at the suggestion of high-priced attorneys and accountants. Similarly, tax planning techniques such as gift tax exclusions or valuation discounts reduce the size of the gross estate but do not appear in the IRS data causing effective tax rates to be overstated for many larger estates. The Institute for Policy Innovation recently revealed evidence of this fact in a study showing that the effective tax rate on the most valuable estates was actually lower than that on medium-sized estates.

Second, the insignificant amount of money the estate tax raises for the Federal Government cannot justify the harmful effects it has on business owners who spend more to avoid

the tax than the federal tax revenue raised. According to the President's fiscal year 2005 Budget, the estate and gift tax brought in \$22.8 billion in revenues to the Federal Government in 2003. This represents less than 1.1 percent of the total revenues out of a more than \$2 trillion Federal budget and less than the amount of money spent complying with, or trying to circumvent, the death tax.

In 2003, Congress' Joint Economic Committee reported that the death tax brought in \$22 billion in annual revenue, but cost the private sector another \$22 billion in compliance costs. Therefore, the total impact on the economy was a staggering \$44 billion. And, when one calculates the amount of money spent on complying with the tax, the number of lost jobs resulting from businesses being sold, or the resources directed away from business expansion and into estate planning, it is clear why this punitive tax must be eliminated.

It is also important to note that many economists believe that overall tax revenues would increase if the estate tax were repealed. According to a study of estate tax repeal proposals, which was prepared by Dr. Allen Sinai for American Council for Capital Formation and Center for Policy Research, Federal tax receipts would rise in response to a stronger economy, feeding back 20 cents of every dollar of estate tax reduction. In fact, over the years 2001 to 2008, estate tax repeal would increase real Gross Domestic Product by \$90 billion to \$150 billion, and U.S. employment by 80,000 to 165,000.

Finally, it is not clear that increasing the unified credit to \$6 or \$7 million would remove small family-owned businesses and farms from the threat of the estate tax. The Small Business Administration's definition of a small business is based on industry size standards. For example, a construction company or grocery store with less than \$27.5 million in annual receipts is considered a small business. Thus, families who build their businesses past the exemption amount will continue to face estate taxes that range from the aforementioned, alarming rate of 45 to 47 percent. The exemption threshold would not help these small businesses. More significantly, without significant reform or, more appropriately, repeal, these same small businesses face the prospect of estate tax rates as high as 60 percent beginning in 2011.

Permanent repeal of the estate tax will provide American families with fairness in our tax system and remove the perverse incentive that makes it is cheaper for an individual to sell the business prior to death and pay the individual capital gains rate than pass it on to heirs. But for minorities, it provides much more. It will allow wealth created in one generation to be passed on to the next thereby establishing sustainable minority communities through better jobs and education, better healthcare, and safer communities.

Mr. Speaker, I urge my colleagues to support H.R. 8 to permanently repeal the Federal estate tax and to restore fairness to our Nation's Tax Code.

Mr. ETHERIDGE. Mr. Speaker, I rise today to voice my opposition to H.R. 8. As a part-time farmer and former small business owner, I have long supported responsible legislation to provide estate tax relief for family-owned businesses. Unfortunately, this bill will not accomplish that goal.

Throughout my service in the U.S. House, I have been a strong supporter of estate tax re-

lief for family farmers and small business owners. The first bill I introduced as a Member of Congress was a bill to raise the inheritance tax exemption from \$600,000 to \$1.5 million and for the first time indexed it to inflation. But H.R. 8 is an extremely irresponsible bill that will add billions to our national debt for our children and grandchildren to pay and will harm more taxpayers than it helps.

The unfortunate reality of our situation is that we have witnessed the most dramatic fiscal reversal in our Nation's history. Our budget surpluses have been frittered away, and our Nation is now drowning in red ink with ever-growing budget deficits and increasing Federal debt. The primary culprits for our increasing debt are the risky, irresponsible tax schemes the Republican Congress has enacted the last 4 years.

Instead of adopting a bill that would increase the burden on our children and grandchildren, we need a common-sense solution that would exempt the vast majority of Americans from an estate tax while maintaining a degree of fiscal integrity.

That is why I am supporting the Democratic substitute authored by Representative EARL POMEROY. This substitute provides an estate tax exemption of \$3 million for individuals and \$6 million for couples beginning in 2006, and the exemption would increase to \$3.5 million and \$7 million respectively in 2009. Furthermore, this plan would instantly repeal the estate tax on a vast majority of farms and small businesses, as well as shield heirs from dramatic capital gains tax liabilities that are part of the Republican plan. The U.S. Department of Agriculture has estimated that more farm estates would have an increased tax liability from the Republican plan's carry-over basis rules than would ever benefit from the repeal of the estate tax.

I support estate tax relief, but not at the expense of our senior citizens who benefit from Social Security and Medicare. The only way to pay for the Republican bill is by taking more money out of the Social Security and Medicare Trust Funds and replacing it with IOUs. H.R. 8 will compound the fiscal mistakes Congress has made the last 2 years with its policy of tax cuts at any cost, including our children's education and our Nation's future.

The people of North Carolina's Second District elected me to help chart a common-sense, fiscally prudent course for the country. I pledged to represent my constituents by paying down the national debt; saving Social Security and Medicare funds for older Americans, and investing our country's resources into education, health care and other initiatives that enable people to improve their lives. H.R. 8 is inconsistent with these goals; therefore, I oppose the bill.

Mr. WELDON of Florida. Mr. Speaker, I want to express my strong support for H.R. 8, the Death Tax Repeal Permanency Act of 2005. I have supported this measure in the past and have introduced similar legislation to make the death tax repeal permanent. I believe it is important that we accomplish the goal of passing this in the House and the Senate and seeing this bill enacted into law.

The Death Tax needs to die. Along with the marriage penalty, the death tax is perhaps the most disgraceful tax levied by the Federal Government and it should be repealed immediately. The death tax is double taxation. Small business owners and family farmers pay

taxes throughout their lifetime, then at the time of death they are assessed another tax on the value of the property on which they have already paid taxes. This is unfair, unjust and an inefficient burden on our economy.

I have spoken in the past about a constituent of mine, Danny Sexton of Kissimmee, FL and owner of Kissimmee Florist. He, like millions of other Americans, has experienced the sad realities of the Death Tax. He joined me several years ago in Washington to highlight the adverse impact the Death Tax had on his family business.

Mr. Sexton, who comes from a family of florists, inherited his uncle's flower shop and was faced with paying almost \$160,000 in estate taxes. This forced him to have to liquidate all of the assets, layoff workers and take out a loan just to pay the death tax. He also had to establish a line of credit just to keep the operation running.

Danny Sexton is the reason we need to appeal the death tax. The death tax isn't a tax on just the rich, it is a tax that hurts family owned businesses—family owned businesses that are the backbone of this great Nation. It also caused several average workers to lose their jobs.

Family owned businesses provide and create millions of jobs for American workers. The people who worked in Mr. Sexton's florist were not rich, but they lost their jobs because of the Death Tax.

In a recent survey conducted by the National Federation of Independent Businesses, 89 percent of small business owners favored permanent repeal of the death tax. Why? Because these small business owners know this tax may mean the death of their business for future generations. According to the Center for the Study of Taxation, more than 70 percent of family businesses do not survive the second generation and 87 percent do not make it to the third generation. Family owned and operated businesses deserve the right to be inherited by the next generation without the blow of the death tax.

In current law, the death tax is phased-out, completely repealed in 2010. But that is not good enough because in 2011, the tax reemerges in full force. That means taxpayers must plan for three different scenarios when passing along their family business—pre-2010 when the exemption levels are gradually increasing and the top rate gradually decreasing; 2010 when the tax is completely repealed; or 2011 when the tax reemerges. This is complicated, confusing and hard to plan for—unless a small business owner knows for certain when his or her death will occur. When we make this tax repeal permanent, taxpayers will have the ability to make long-term financial plans with certainty and will have the opportunity to pass on their hard earned family businesses and farms to future generations. It will also ensure that those who work for these small businesses are able to keep their jobs.

I urge my colleagues to vote for H.R. 8, the Death Tax Repeal Permanency Act of 2005.

Mr. HOLT. Mr. Speaker, I favor cutting unnecessary, ineffective or unfair taxes, but in balanced and fiscally responsible ways. I have been one of the few Democrats in Congress who has been willing to cross party lines to vote for tax cuts. I have voted to eliminate the estate tax in the past. I have been willing to vote for eliminating the marriage penalty, to vote for cutting taxes for small businesses, to

vote for cutting taxes to help people pay for education and retirement, and to vote for cutting taxes for senior citizens and to give business tax credit for research work.

With a war in Iraq and looming postwar costs, increased expenses for domestic security and a ballooning budget deficit, Congress must exercise restraint on both revenues and spending to prevent fiscal policy from spiraling out of control. The consensus in favor of balancing the budget over the long term must be re-established.

There are a wide range of pressing national challenges that need action, from rapidly increasing health care costs, to our increasing dependence on ever-more-expensive foreign oil, to a broken and increasingly corrupt political system, and yet today we are passing a bill that will only help a few of the already wealthy.

Today we are debating total elimination of the federal inheritance tax. Permanently repealing the estate tax would further balloon the Federal budget deficit by an estimated \$290 billion through 2015; and by \$745 billion through 2021. Add in the interest costs of borrowing the funds to pay for this measure, and the true 10-year cost is nearly \$1.3 trillion.

I support the substitute offered by Representative EARL POMEROY which will protect families and small business from the estate tax. The substitute increases the estate tax credit to \$3 million, \$6 million for married couples, beginning in 2006. Under the substitute, the credit would be increased to \$3.5 million, \$7 million for couples, in 2009. The Pomeroy substitute would eliminate tax reporting compliance burdens and carryover taxes for over 71,000 estates each year which effects small business and families. According to Representative POMEROY'S calculation, his package would exempt 99.68 percent of all estates from the estate tax, yet it would save the Treasury \$217 billion compared to total repeal. It is worth noting that the saving of \$217 billion is equal to 40 percent of the shortfall of Social Security of the next 75 years.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe about \$7.8 trillion. Here we have another tax cut that is not being paid for, even as the Bush administration and the leadership of this Congress spend more than the American government has ever spent on homeland security and on all the other expenses of running the Government—especially the huge costs of the war in, and occupation of, Iraq. Government borrowing of this scale places the burden of repaying our debts on our children.

Governing is about making choices. Our constituents all across America sent us to Congress to make the tough decisions. They did not send us here so we can pass those decisions on to our children, and they certainly did not send us here to pass the cost of our decisions on to our children.

I want the people of this country to realize that, right now, we owe collectively, about \$4.5 trillion to foreign countries. Japan holds \$702 billion of our debt; China, including Hong Kong, \$246 billion; the U.K. \$163 billion; Taiwan, \$59 billion; Germany, \$57 billion; OPEC countries, \$65 billion; Switzerland, \$50 billion; Korea, \$68 billion; Mexico, \$41 billion; Luxembourg, \$29 billion; Canada, \$43 billion—the list goes on and on.

More tax cuts of this size will not only jeopardize critical public services now, but they will

also hurt Americans well into the future. Massive deficits now create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Government should follow the principle of helping the present generation and helping future generation as well—not leaving future generations to pay our bill.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. POMEROY

Mr. POMEROY. Mr. Speaker, pursuant to H. Res. 202, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Mr. POMEROY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Certain and Immediate Estate Tax Relief Act of 2005".

SEC. 2. RETENTION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(c) CONFORMING AMENDMENTS.—Subsections (d) and (e) of section 511 of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subsections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsections, and amendments, had never been enacted.

SEC. 3. MODIFICATIONS TO ESTATE TAX.

(a) IMMEDIATE INCREASE IN EXCLUSION EQUIVALENT OF UNIFIED CREDIT.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows "the applicable exclusion amount" and inserting ". For purposes of the preceding sentence, the applicable exclusion amount is \$3,500,000 (\$3,000,000 in the case of estates of decedents dying before 2009).".

(b) FREEZE MAXIMUM ESTATE TAX RATE AT 47 PERCENT; RESTORATION OF PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) Paragraph (1) of section 2001(c) of such Code is amended by striking the last 2 items in the table and inserting the following new item:

|                         |  |
|-------------------------|--|
| "Over \$2,000,000 ..... | \$780,800, plus 47 percent of the excess of such amount over \$2,000,000." |
|-------------------------|--|

(2) Paragraph (2) of section 2001(c) of such Code is amended to read as follows:

"(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much

of the amount (with respect to which the tentative tax is to be computed) as exceeds \$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and \$159,200."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2005.

SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 of the Internal Revenue Code of 1986 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

"(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

"(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

"(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

"(2) NONBUSINESS ASSETS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

"(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

"(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

"(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

"(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

"(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

"(A) cash or cash equivalents,

"(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

"(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

"(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

"(E) annuity,

"(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

"(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

“(H) commodity,

“(I) collectible (within the meaning of section 401(m)), or

“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) LOOK-THRU RULES.—

“(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

“(B) 10-PERCENT INTEREST.—The term ‘10-percent interest’ means—

“(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

“(5) COORDINATION WITH SUBSECTION (B).—Subsection (b) shall apply after the application of this subsection.

“(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Amend the title so as to read: “A bill to amend the Internal Revenue Code of 1986 to retain the estate tax with an immediate increase in the exemption, to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, and for other purposes.”.

The SPEAKER pro tempore. Pursuant to H. Res. 202, the gentleman from North Dakota (Mr. POMEROY) and a Member opposed each will control 30 minutes.

Mr. HULSHOF. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HULSHOF) will be recognized for 30 minutes in opposition to the amendment in the nature of a substitute.

The Chair recognizes the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I am pleased to begin the presentation of the amendment in the nature of a substitute by yielding such time as he may consume to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

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

Mr. Speaker, I was very interested in the last presentation. The bottom line was, he did not pay a tax. All that story, all those facts, and he did not pay a tax. He did pay his accountant some money to go through and make sure that he was doing what was right. He did that because the Tax Code is ex-

traordinarily complicated and has been made 25 percent more complicated by the Republican majority over just the last 48 months.

Mr. Speaker, let us be absolutely crystal clear: This Republican proposal is nothing but a tax increase. Hear me, this is a tax increase disguised as a tax cut.

“Who are you, Mr. HOYER? Lewis Carroll? What is this gibberish that you are talking about?”

It would raise taxes for thousands of families and thousands of family farmers and small businesses. There are no two ways about it.

For years, House Republicans have proclaimed that the elimination of the inheritance tax, a tax, now hear me on this side of the aisle, I know you want to hear this, a tax first proposed by Theodore Roosevelt in 1906. Now for those of you who may not be quite fully cognizant of our history, Theodore Roosevelt, of course, was a Republican President of the United States of America. It was intended to save family farms and small businesses.

But, today, not according to the gentleman from Maryland (Mr. HOYER), not according to the gentleman from North Dakota (Mr. POMEROY), not according to all the Democrats in this House or in the Senate, according to the Republican Department of Agriculture, I tell my friend from Missouri, the Republican Department of Agriculture says more farm estates would have increased tax liability from the carryover basis rules in this bill than would benefit from repeal of the inheritance tax. In other words, if we pass this bill, family farmers and small businesses are going to pay more taxes.

Now, I am for the Pomeroy alternative. First of all, we do not have that complicated look-back to find out what the basis was 10, 20, 30, 40, 50 years ago. We do as we do now, what is the basis now when you get it?

But we exempt under the substitute offered by the gentleman from North Dakota (Mr. POMEROY) \$7 million. That means that 99.7 percent of the people in America would never pay an estate tax. I am for that. So this argument, I tell my friend from Missouri, is about the three-tenths of 1 percent of the very largest estates in America. Because if you vote for Pomeroy, 99.7 percent are exempt. So, as we have been doing for the last 4 years, we have been talking about the upper 1 percent. That is who we are talking about.

Now we are pretty well off in Congress. The American people do pretty well by us, very frankly. I am doing well enough. I paid a little bit of Alternative Minimum Tax this year. It shocked me, but my accountant pointed out that I did. So we are doing pretty well.

But there are a whole lot of people that are not doing nearly as well as we are doing, and we are not helping them at all by simply giving away revenue that we could spend on the education of their kids and the defense of their

country, which we are borrowing for, of course, so that their kids will pay the debts.

Mr. Speaker, under current law, the Joint Economic Committee estimates that only 7,500 estates, in a Nation of 290 million people where some 3 million people die every year, 7,500 estates out of the 3 million people that die would have any estate tax liability in 2009. However, the permanent switch to carryover basis rules, rules that are used to calculate cap gains, would impact an estimated 71,000 additional estates, and many of those estates would face capital gains tax increases.

Now even as this bill increases the capital gains tax on many farm estates and small businesses, I tell my friend, it still adheres to what seems to be the Republican Party's core economic principle: fiscal irresponsibility.

The gentleman says this tax, that tax, and he is right. There are a lot of taxes on all of us, and we have a lot of services in this country. And, frankly, for the most part, as the gentleman knows, particularly if you take the industrialized nations, our tax structure at the Federal level is lower. But, still, they are high, and we would like to see them reduced.

But the fact of the matter is, I have three children, three daughters, they are wonderful people, and they provided me with three grandchildren. And I am buying stuff. I am buying defense against terrorists, I am buying stabilizing Iraq, I am buying education, I am buying health care, I am buying roads. All of us are buying that.

I do not want to have to say to my grandchildren, look, I am going to use it, but you pay for it. That is an immoral policy as well as a fiscally irresponsible one, an unwillingness to pay our bills.

Now, this is \$290 billion. Just \$29 billion a year over 10 years. No sweat. Shoot, we are borrowing all the Social Security money right now that the Republicans said they were not going to spend a nickel of. They are going to spend \$170 billion of Social Security money this year alone. How do we do that? We borrowed \$118 billion last February, from foreigners mostly, which we are putting our kids deeply in hock to China, to Japan, to Germany.

At a time of record budget deficits of nearly half a trillion dollars, this Republican bill would cost nearly \$1 trillion over the first 10 years of full repeal. It would irresponsibly drive our Nation even further into debt and immorally force our children to continue to be liable for our bills.

In sharp contrast, I tell my friend from Missouri, and I wish there were more people on this floor, but it is only giving away, you know, \$250 billion to \$1 trillion. What do we care? We have given away trillions of dollars over the last 4 years as we go trillions of dollars into debt. As a matter of fact, \$9 trillion into debt.

The substitute offered by the gentleman from North Dakota (Mr. POMEROY) is excellent. It costs less than

one-third of this Republican bill. It would permanently increase the current exclusion amounts to \$3.5 million per individual and \$7 million for couples. Three-tenths of the estates would be left in 2009 and, as a result, exempt 99.7 percent of all estates from estate tax liability.

Mr. Speaker, I congratulate the gentleman from North Dakota (Mr. POMEROY) for this alternative. It solves the problems of small farmers, it solves the problems of small businesses, it solves the problems of pretty significant but nevertheless smaller estates, to make sure that the hard work of mom and dad can be passed along to their daughter and their son and their son's and daughter's families.

□ 1545

We agree with the gentleman from Missouri (Mr. HULSHOF) that that is a good objective, but we also agree that we ought to have fiscally responsible policies.

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

Mr. HULSHOF. Mr. Speaker, just a quick comment for whatever time I may consume before yielding to the gentleman from South Carolina (Mr. BARRETT).

Did I hear the last speaker correctly, that we have given away, whose money is that? It would be the American taxpayers' money, who are probably, even as we speak, trying to grapple with those forms as they have tax day coming, as the income tax payers of America that provide for the comfortable living that he and I enjoy.

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

Mr. HULSHOF. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I ask my friend, whose debt is it?

Mr. HULSHOF. Mr. Speaker, I would say to my friend, and of course, as we have had a lot of unforeseen circumstances that have occurred, as was mentioned earlier, Iraq and Afghanistan. And let us hope and pray that as permanent repeal occurs, if it occurs, in the outyears that we will not be in that war on terrorism. But I would say to my friend, and I appreciate the question, but he also mentioned the Department of Agriculture, and lest, Mr. Speaker, anyone wonder who those agricultural groups are that represent farm families across America, I would place into the RECORD a letter from said groups.

In essence, the letter reads as follows: The groups listed below support permanent estate tax repeal, ask for this body to vote for H.R. 8, and the letter goes on to say, individuals and families own virtually all of the farms and ranches that dot America's rural landscape. Death taxes threaten the transfer of these operations to the next generation of food and fiber producers. Sincerely, Alabama Farmers Federation, American Farm Bureau Federation, American Sheep Industry Association,

the American Soybean Association, Farm Credit Council, National Association of Wheat Growers; to my friend from North Dakota, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, USA Rice Producers Federation, U.S. Rice Producers Association, and the Western Peanut Growers Association.

APRIL 13, 2005.

HOUSE OF REPRESENTATIVES,  
Washington, DC.

DEAR REPRESENTATIVE: The groups listed below support permanent estate tax repeal and ask you to vote for H.R. 8, the Death Tax Repeal Permanency Act of 2005.

Individuals and families own virtually all of the farms and ranches that dot America's rural landscape. Death taxes threaten the transfer of these operations to the next generation of food and fiber producers.

In 2001, Congress recognized the harm that death taxes cause family businesses and voted to repeal this onerous tax. Unfortunately, repeal scheduled for 2010 is temporary and sunsets after only one year.

Congress should act now to make death tax repeal permanent. Please show your support for permanent death tax repeal by voting for H.R. 8 when the bill reaches the House floor this week.

Sincerely,

Alabama Farmers Federation, American Farm Bureau Federation, American Sheep Industry Association, American Soybean Association, Farm Credit Council, National Association of Wheat Growers, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Grain Sorghum Producers, National Milk Producers Federation, National Potato Council, USA Rice Federation, US Rice Producers Association, Western Peanut Growers Association.

Mr. Speaker, to my friend from South Carolina, I am not sure if any of those groups happen to represent farm families in his district, but I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time. And, yes, I say to the gentleman, they are from South Carolina, and I see them every day.

Mr. Speaker, I rise today against the Pomeroy substitute and in full support of H.R. 8, the Death Tax Repeal Permanency Act of 2005.

The death tax defies common sense and is fundamentally unfair, Mr. Speaker. Prior to 2001, the top death tax rate was 55 percent. Today, the top rate is 47 percent, and these are unbelievably high tax rates, especially when the tax is imposed after a lifetime of hard work.

The death tax is also a job killer, Mr. Speaker. Resources that could be used to expand businesses and hire new employees are instead used inefficiently to plan for the impact of the death tax. The Joint Economic Committee noted that the death tax reduces the stock in the economy, listen to this now, approximately one-half of \$1 trillion.

Mr. Speaker, the permanent repeal of the death tax will not only ensure that small businesses and family farms are not subject to these unfair rates of taxation, but also simplify the tax law and facilitate long-term financial planning. The 2010 sunset date for the death tax repeal makes it nearly impossible for taxpayers to make long-term financial decisions as they relate to the tax. Enactment of the Death Tax Repeal Permanency Act promotes fairness and simplification by giving taxpayers the certainty they deserve.

Mr. Speaker, I strongly support H.R. 8, the Death Tax Repeal Permanency Act of 2005, and I urge my colleagues to vote "no" on the Pomeroy substitute amendment.

Mr. POMEROY. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER), the other member of the Earl Caucus of this House.

Mr. BLUMENAUER. Mr. Speaker, I appreciate my namesake's courtesy in permitting me to speak on his substitute. I appreciate his hard work and clarity in dealing with this issue and a step forward to stop a cynical game that I have watched be played here in this Congress since I was first elected 9 years ago.

There is today, and there has been throughout these 9 years, a consensus to make adjustments to the inheritance tax, to make it less steeply graduated, to raise the exemptions, to be able to do fine-tuning, to deal with the legitimate problems of small, closely held businesses and farms. And if the Republican majority would have permitted a fair and honest debate on this floor of the inheritance tax, we would have enacted significant permanent adjustments that would have solved the vast majority of the problems for 99.9 percent, I dare say. But that is not to be.

Instead, we have been involved with a cynical process that we are seeing played out here today. Nobody expects over the long haul that we are, in fact, going to eliminate in its entirety the inheritance tax. Our Republican friends have been involved with a roller coaster of a 10-year phase-out, and then insanely reinstating it in its entirety. As a result nobody has been able to plan thoughtfully for the last 5 years.

My friend from Missouri says, well, on the one hand, it is only 1.5 percent of Federal revenues; but that is half of the problem of Social Security that has driven some people into a frenzy. It is not an insignificant number, in the neighborhood of \$1.5 to \$2 trillion over the period of time we are talking about.

But my Republican friends do not want to allow the legislative process to work, and have a permanent solution that will stop the ambiguity and that will solve the problem for closely held businesses and yet, not allow vast amounts of wealth, wealth that is so significant that Bill Gates's own father does not think that it should eliminate

the inheritance tax and has even written a book about it.

The gentleman from North Dakota has proposed not that we game the system. The gentleman from Missouri (Mr. HULSHOF) found out that his parents, like 99 percent of the people, are not subjected to the inheritance tax.

The Pomeroy amendment would immediately raise that threshold to \$6 million, with further adjustments to \$7 million in 4 or 5 years from now, I forget the exact period of time; he will correct me, I am sure. This brings it up so that 99.7 percent of the American public are exempt, and it does it today. Not with games, not with promises but by solving the problem. I think this is so important as I think of the millions of Americans today that are struggling with the 1040 form, the 2.9 million Americans subjected to the alternative minimum tax, soon to be 16 million families next year. Not enough money, not enough time to solve that yet we are going to be involved with this cynical game of the inheritance tax.

I strongly urge the adoption of the Pomeroy substitute, which will solve the problem once and for all for the vast majority of the family farms, the small businesses, and, in fact, a number of people of significant wealth; and it will provide resources so that we can solve problems like Social Security and the alternative minimum tax and be about our business.

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

Mr. Speaker, the gentleman just indicated that the Pomeroy substitute solves the problem once and for all, and I have listened to a number of individuals on the other side during the course of this discussion that this is only going to affect the superwealthy and that really there are no family businesses that are affected by the estate tax. It has been interesting, because some of those comments have come from colleagues of mine on the Committee on Ways and Means.

Mr. Speaker, we have had a number of hearings going back to at least, from my memory, 1997. So I will mention some of these folks who have come and testified in front of the Committee on Ways and Means.

Martin Whalen testified about his family-owned and -operated company, Etline Foods Corporation, a distributor of food service products in York, Pennsylvania. When they purchased the business, 48 employees; in 1997, 105 employees. Rhetorically, I would say to my friend from North Dakota, will this solve their problem?

Wayne Nelson, a farmer from Winner, South Dakota. His father farmed until his father's death in 1993. Their estate planning was inadequate. Several parcels of land in South Dakota were liquidated in order to pay the Federal tax. Will the substitute rectify that situation?

What about Roger Hannay of Hannay Reels, Incorporated, a small manufacturer in the foothills of the Catskill

Mountains about 25 miles from Albany, New York, a small manufacturer employing 150 employees?

What about Richard Forrestal, Jr., a principal in Cold Spring Construction, a firm specializing in highway and bridge construction?

What about Douglas Stinson, a tree farmer from Toledo, Washington, that runs the Cowlitz Ridge Tree Farm? Each of these testified, Mr. Speaker, that they were impacted negatively by the existence of the death tax.

What about Carol Loop, Jr., president of Luke's Nursery and Greenhouses, a wholesale plant nursery operation in Jacksonville, Florida? He started his business with a \$1,500 loan and a borrowed truck. Would the problem be solved with the Pomeroy substitute?

Or Christopher and Kimberly Clements of Golden Eagle Distributors in Tucson, Arizona. They lost their father unexpectedly after a valiant bout with cancer. He lost his life at the age of 58.

Or Jeannine Mizell, a third-generation owner of Mizell Lumber and Hardware Company of Kensington, Maryland.

What about Robert Sakata, a vegetable farmer from Brighton, Colorado, or Jean Stinson, a railroad track manufacturing company in Barto, Florida, running the R. W. Summers Railroad Contractors? Their family had to shut down a facility in North Carolina, laying off two-thirds of the 110 employees to pay the estate tax.

Or Jack Cakebread, founder of Cakebread Cellars in Napa Valley, California. Would each of these individuals be solved or their estate problems solved by the substitute?

It is a rhetorical question, and the gentleman from North Dakota (Mr. POMEROY) knows it, and I do not mean to put him on the spot, but he cannot answer the question because when we draw a line, an arbitrary line, wherever we draw that line, we still are going to have those entrepreneurs that have been willing to invest in their businesses, hire employees, build local communities; and as long as the death tax remains in existence, they are going to have to do some sort of estate planning.

I think it is much the better course to completely and finally permanently repeal the tax.

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

Mr. POMEROY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is a privilege to carry this debate today on behalf of the minority, and a privilege to participate with the gentleman from Missouri, who is one of my favorite Members of the House. He has presented his side very well.

He asked relative to a number of estates, would they be covered under the Pomeroy substitute? Well, I believe that a number of them would have their estate tax problems completely

eliminated, because we take the exemption and we double it. We go from today, a joint estate at \$3 million, and we say, if you have a joint estate of \$6 million, no estate tax. We, like 2009, take that up to \$7 million in a joint estate circumstance.

So as to the question he asked, I do not know the particulars of those cases, but I expect that a number, if not all of them are covered, because 99.7 percent of the estates in this country are under that amount.

But there is a feature of the majority proposal that is not represented in our substitute, and I want to talk about it right now, and this involves the imposition of capital gains liability at the handling of an estate under the majority bill.

I can just imagine Members in the majority, some of them that might have signed that "no new tax" pledge that was going around last Congress, just wringing their hands because they are about to vote for a tax increase, a tax increase in the form of capital gains taxation on estates. Section 541 of the bill that the majority proposal would make permanent reads this way: termination of step-up in basis at death. Tax legalese, but what does it mean? It means new capital gains and capital gains if you have an estate that exceeds that 1.3 gross value. You have a reporting commitment that attaches at 1.3 gross value for estate.

□ 1600

You know, it is the darndest tax bill I ever saw. Because, while they talk about tax relief, they are hurting more than they are helping.

I direct you to this chart. Number of estates today with capital gains issue, zero; and that is because the taxable basis in the property is established at time of transfer in an estate. No capital gains.

What happens under their proposal? Well, we know that there are 71,000 estates in the year 2011 that are likely to have reportable amounts, in other words, gross valuation over \$1.3 million. Some will have a capital gains issue they have to pay. Some will not. But they are all going to have to report with the IRS.

And this report is something else. It means going back in and trying to establish what the value of the property was at the time mom and dad acquired it. It is a nightmare. And that is well-established in the CONGRESSIONAL RECORD. Because I have here the hearing, I have here the Ways and Means record at the time the committee considered testimony to repeal the carryover basis, the very provision they want to re-establish in tax law.

You see, it passed once before, in 1976. It was delayed from implementation and then repealed retroactively because of its consequences.

Here is what some very interesting participants had to bring to the committee. Carryover basis fosters an insidious bias against farmers and ranchers. Carryover basis calculations for

land, buildings, machinery, livestock and timber have been described as, at best, potential nightmares. Trying to establish what the taxable basis on this is, which their law would require, is a nightmare. So says the American Farm Bureau in their 1979 testimony.

The Cattlemen's Association, one touted as one of these that want to re-establish capital gains on estates, they say, because of its complexity, carry-over base is impossible to comply with. It will increase the tax burden and compound the illiquidity of estates of farmers, ranchers and other family business operators who sell inherited property in the normal course of business, and I quote, and find it in the record from the National Cattlemen's Association.

NFIB also states, I strongly urge you, as an individual and as a taxpayer and as one who professionally and through an association represents small business people, repeal the carryover basis. So says the National Federation of Independent Business, the very group that they have cited as trying to re-establish carryover basis in the Tax Code and put capital gains back on estates.

We have been here before. We do not want to do it again. Do you not understand, voting for the repeal bill brings a new bill, a capital gains bill, and a capital gains bill to thousands that have no estate tax consequence?

So if you want to cast a vote this afternoon for a tax relief proposal, vote the Pomeroy substitute. No capital gains in the Pomeroy substitute.

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

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

As the gentleman from North Dakota recognizes; and, again, I do not think he meant to misspeak, but the underlying bill, H.R. 8, does provide a step up in basis of \$3 million for the surviving spouse and a \$1.3 million step up in basis for surviving heirs.

Mr. Speaker, many have worked on the death tax repeal and going back even to the, I think, Family Heritage Preservation Act of 1993. The gentleman from California introduced that bill and I think had 29 cosponsors. Now, of course, we are over 200 on permanent repeal.

Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. Cox).

Mr. COX. Mr. Speaker, the preceding speaker just told us that he does not like the carryover basis. And I will tell you what. If his amendment got rid of any aspect of carryover basis in death tax I would vote for it. But this is a give-with-the-right-hand, take-away-with-the-left-hand operation that he is proposing, because what he is also doing is he is bringing back the 47 percent death tax.

We are trying to repeal the death tax, not bring it back; and you cannot tell us that capital gains at 15 percent is worse than the death tax at 47 percent.

And as the gentleman from North Dakota just mentioned, we do not have a carryover basis in its entirety. We have simply a step up in basis for both the spouse and for the children.

I wish we could get rid of the carry-over basis. I would be thrilled with that. But the Pomeroy substitute gives us the death tax back full strength at 47 percent tax rate, and it arbitrarily says that a small business that is worth \$3 million is going to have to deal with this.

Now you have to ask yourself, in advance of your death, do you know what the assets and inventory of your business is going to be 10 years, 20 years, 30 years down the road? The answer is no. Of course not. You are going to have to do that tax compliance year in and year out.

Tax compliance, the cost of actual accountants and lawyers and life insurance and all the other things that you have to do to deal with the death tax year in and year out is \$20 billion a year.

This tax, the death tax, kills between 170,000 and a quarter million jobs each year, according to the Nonprofit Center For Data Analysis. The death tax is a job killer. It is destroying family farms and businesses. It is a drag on economic growth, and it is the greatest disincentive to invest additional capital in family businesses in America.

But the authors of this amendment still want to pry lots of cash out of the cold dead fingers of America's deceased entrepreneurs. So they rewrite the language of the Tax Code so we can keep all 88 pages of complexity of the death tax and all the thousands of pages of regulation and the hundreds of thousands of pages of case law that go with it. This is the most complex part of one of the most complex tax systems in the world, and it is time to drive a stake through its heart. It is time for the death tax to die.

This is not the time to redefine the death tax or add legislative language so that tax lawyers and accountants can have more to play with. It is time to kill it. And that is why we must vote against this amendment and in favor of the total repeal of the death tax.

Here is the message that this amendment, were it to be adopted, sends to American workers: Do not work for a small- or medium-sized American family business. Do not work for a large family owned business. To be safe, do not work for any small businesses that are growing quickly or picking up new customers or introducing new products. Because the Federal Government has decided that the family businesses can grow without the destructive burden of the death tax but only until some IRS bureaucrat decides that these businesses are worth \$3.5 million dollars. Then the businesses will be subject to huge new tax burdens. And guess what? You will not know until it is too late whether you are on one side or the other side of that threshold.

I have to tell you, it sounds like \$3 million is a lot of money. And it is if you or I had it in our pocket. But for a business, counting its real estate, its assets, its inventory, its trucks, that is a tiny business indeed. And if you are trying to employ some people, you have 10, 11, 12 people that work for that business, what are you going to say to them when they lose their jobs because the family business has to be liquidated on the death of the entrepreneur in order to come up with the actual cash to pay for it?

The IRS is not going to accept shares of stock in the family business in payment of the death tax. They are going to say, go sell those shares, go liquidate the business, go sell the assets in order to pay off the tax plan.

To the supporters of this amendment I say we agree with you that the death tax destroys family farms and businesses. Obviously, that is your presumption if you are trying to have a threshold below which people will not pay it. We agree with you that the death tax destroys family farms and businesses, that it kills jobs and reduces economic growth. So why do you want to keep this monster alive?

Please join with us and kill the death tax once and for all.

Mr. POMEROY. Mr. Speaker, I yield myself 90 seconds.

You know, anyone in the accountant or tax-planning profession worrying about losing business because of the estate tax is going to be smiling broadly at the end of tonight when we pass this re-creation of capital gains tax and estates.

In fact, the ABA Task Force report devotes almost 70 pages to discussing the problems that exist with the new carryover basis rules in their legislation. The problems identified in the report include unequal treatment of capital losses, difficulty in applying basis adjustments to property sold during the administration of the estate, treatment of property with debt and excessive basis, treatment of installment loans, unequal treatment of pension assets, administrative problems with allocation to spousal property, discrimination in favor of spouses in community property states. Even a cursory examination of that report leads to a conclusion that serious problems exist with the new rules and that their surface simplicity is quite misleading.

Let us just walk through some of the titles, some of the titles of the new capital gains law that they are going to have: Basis increase for certain property; limit increased by unused built-in losses and carryovers; spousal property basis increases; qualified terminable interest property; definitions and special rules for application of subsections (b) and (c); fair market value limitation; coordination with Section 691; information returns, et cetera.

And to think that for every one taxpayer getting relief under their proposal, an additional ten are now going to face this nightmare. It is a funny way to give tax relief.

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

Mr. SHERMAN. Mr. Speaker, I thank the gentleman from North Dakota for yielding me this time and perhaps for mentioning what I see as the only good part of this bill. You see, I am a CPA and tax lawyer by training, and this bill is the full employment act for both my CPA friends and my tax lawyer friends.

Republican after Republican has come to that microphone and talked about the electrical tax, the sales tax, the telephone tax, the payroll tax, the income tax, the marriage tax, the cable tax and the fuel tax.

And what is their solution? To eliminate a tax that applies to only ¼ of 1 percent of America's families. Yes, that is right. They want to keep the electrical tax, the sales tax, telephone tax, payroll tax, the income tax, marriage tax, cable tax and the fuel tax.

They want to vote for a bill that takes \$290 billion out of the Treasury in its first 4 plus years and about \$70 billion a year thereafter and make it impossible for the Federal Government to ever give any relief for those other taxes. It is a bill to shaft 99 and ¾ percent of all American families.

But that does not stop there. Republican after Republican has come up here and boasted how the passage of this bill will slash charitable giving. So it is not just a loss to the Federal Treasury, it is a loss to our hospitals and a loss to our universities, who are strangely silent on this bill because they are afraid of angering ¼ of 1 percent of the families in the United States who happen to be a huge chunk of their donors.

Let us look at the substitute. It is more fiscally responsible, costs about ¼ as much, but it provides more tax relief for middle-class families.

Let us look at this from the standpoint of a widow, a surviving spouse. Under current law and under the Pomeroy substitute, no estate tax, no capital gains tax and little or no compliance work. Under their bill, more compliance work and sharp restrictions on the step up in basis.

So this bill is an attack on working families, an attack on the middle class, and an attack on widows. They have lost their spouse, and now you want them to lose their step up in basis as well. These are people who pay zero estate tax and get zero benefit from this bill. They have lost a spouse, and that is the folks you go after. \$290 billion in the first 4 plus years. It is part of an overall Republican tax package.

I am on the International Relations Committee. We are waging a war on terrorism. We turn to our men and women in uniform and say, stand ready to make the ultimate sacrifice; and we turn to the richest families in America and say, you should make a zero sacrifice.

Now these Republican tax policies have caused the President of the

United States to call into question our intent and ability to pay U.S. government bonds.

□ 1615

It calls into question our ability to pay our bonds.

Now, the President will not warn the Chinese investors. He wants them to buy the bonds, but he has warned every Social Security recipient that we may dishonor the U.S. Government bonds held by the Social Security trustees.

This bill is part of an overall plan that keeps in effect the electrical tax, the sales tax, the telephone tax, the income tax, the payroll tax, the marriage tax, the cable tax, and the fuel tax. And it is part of an overall plan that, well, I ought to write a commercial because there is a lot of public policy commercials out there, and I ought to write them for them.

Allowing corporations to avoid American taxes just by renting a hotel room in the Bahamas, \$8 billion. Allowing millionaires to pay virtually nothing on dividend income, \$80 billion. Eliminating the estate tax even on the richest estates, \$290 billion. Telling our soldiers in the field that it is the billionaire families who are the ones who have sacrificed too much for America, priceless.

And the Republi-card, accepted everywhere. The very wealthy want their taxes released.

And do not forget the Deficit Express Card, now with a new \$12 trillion credit limit.

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

Mr. Speaker, notwithstanding the gentleman's props, I would commend to him for his reading leisurely "The Economics of the Estate Tax: An Update," a Joint Economic Committee study dated June 2003 which in essence states the estate tax raises very little, if any, net revenue because of distortionary effects of the estate resulting in income tax losses roughly the same size as the revenue collected. Secondly, estate taxes force the development of environmentally sensitive land. Through 2001, 2.6 million acres of forest land were harvested and 1.3 million acres were sold every year to raise funds to pay the estate tax.

Regarding his criticism on philanthropy, the estate tax according to the Joint Economic Committee study, the estate tax may actually be one of the greatest obstacles to charitable giving as estate taxes crowd out charitable bequests.

Mr. Speaker, I yield two minutes to the gentleman from Iowa (Mr. LATHAM).

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

Mr. Speaker, it is fascinating if you would think if there was a proposal in the substitute to eliminate the whole list of taxes that the gentleman referred to, but I have never heard one case where they have talked about eliminating any tax, only increasing

taxes. So it is quite an interesting debate.

Let me just say, I come to this as someone who grew up in a family farm operation, a family small business. I can tell you firsthand from real life, honest experience the effect that the death tax has on families and creating jobs and opportunities and being able to continue what I believe is the American Dream, and that is to have an opportunity for your children and your grandchildren to continue a life that you love and cherish. Nothing stands in the way more for families and small businesses to be successful, to continue, than the death tax.

We spend thousands and thousands of dollars every year as a way to try and avoid what the death tax will do to us. It is morally wrong that the day you die, your heirs should not only see the undertaker but have to go see the tax man to see how much the Federal Government is going to take away from a lifetime of work.

The idea, while the gentleman from North Dakota (Mr. POMEROY), I have the greatest respect for him, but the idea of continuing an immoral tax that destroys family, destroys family businesses, I have seen neighbors who have lost everything they have, lost generations of work on a family farm because of the death tax. It is a fact that nothing is more harmful, nothing is more hurtful than a tax that takes away the hope of the American Dream.

This country is based on farms, on small businesses. That is the lifeblood of this Nation, and nothing destroys it more than the death tax; and that is why we have to kill this death tax to make sure that we can experience the American Dream in this country.

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

(Mr. DAVIS of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the Pomeroy substitute to House Resolution 8. And I argue that anyone in this body who is currently concerned about our ballooning national debt should vote in favor of the substitute.

The Pomeroy substitute is fair, and it covers those who need tax exemption now, America's small businessmen and America's farmers.

It is clear from the debate today that the majority of Members in this body believe that our farmers and small businessmen and -women need relief from the estate tax, and I will do all I can to ensure that these hardworking Americans get their due tax relief. In my opinion, the Pomeroy substitute does this by increasing the estate tax exemption level in 2006 by \$3 million for individuals and \$6 million for couples. Additionally, from 2009 forward, the tax exemption level would be \$3.5



million for individuals and \$7 million for couples. This will fully cover 99.8 percent, 99.8 percent of all the estates in this country. Only two out of every 1,000 would not be totally covered.

I know my friends on the other side of the aisle desperately want to make sure that the Paris Hiltons of America are fully covered, but they have done pretty good the last 100 years; and I am sure under the Pomeroy bill in the future they will continue to do pretty good.

Additionally, the substitute bill eliminates the liability for tax on gains accrued before death. This is incredibly important to those children who may decide to sell the small farms and businesses they have just inherited. By using the stepped-up basis to calculate the value on an estate at a time of death, the substitute bill is actually making the Tax Code simpler and less cumbersome. It seems to me that this is important to us. It is important to the President, and it is important to many of us in Congress.

I will do all that I need to do in order to support estate tax relief for farmers and small business owners in my district. But would it not be a great message to send to the Senate and to the American people by providing them with the estate tax relief they want and need without breaking the bank? It seems to me that it is the fiscally conservative thing to do. I truly believe we have got to stop this liberal policy of borrowing and spending.

To my friends on the right who believe that any estate tax is so vile that you took your polling advice and decided to start calling it the death tax, you should read Leviticus 25 containing God's message to Moses that every 50 years, called the Jubilee, all possessions must be returned to the original owners. I invite you to read that scripture.

You had a chance in 2002 to increase the benefits by giving the tax relief to the estates of all Americans. Why did you not? It clearly was not to keep the budget balanced. Was it political? Every year around tax time and every 2 years around election time, you come back with permanent tax repeal. I think now is the time to do it. Let us get it done.

The Pomeroy substitute bill is a bill we need to send to the Senate. It is a fair bill. It is fiscally responsible. It should be the House's bill.

Mr. POMEROY. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from North Dakota (Mr. POMEROY) has 4½ minutes remaining. The gentleman from Missouri (Mr. HULSHOF) has 14½ minutes remaining.

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

Mr. HULSHOF. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me

time. I thank the gentleman for his leadership on this issue.

I think it is important that we spend a moment or two and talk about how we got here, why do we have a death tax and what is its consequence; what is the fundamental we are talking about.

The death tax began in 1916 in order to fund World War I, a noble cause but a cause that has long since passed. It remained through the 1920s and 1930s under the rationale that we should prevent the accumulation of wealth, an issue more than addressed with our current anti-trust laws.

The death tax has become a harmful relic of previous times. It survives through the inertia of government and now has the consequence of punishing hard work and success. It harms families, and it kills small businesses.

Families should not have to visit the undertaker and the tax collector on the very same day.

The death tax is fundamentally unfair and violates what should be our principle of freedom and liberty and the imperative of personal property rights.

Freedom and liberty demand that hard-working Americans be able to leave their children and their grandchildren the results of their diligence and their success and not have Washington get a windfall.

I urge all of my colleagues to act positively today on behalf of all Americans and let the death tax die for good.

Mr. POMEROY. Mr. Speaker, in light of the imbalance of time, I would be happy to have my friend from Missouri burn up a little more of his time, unless he has no further speakers.

Mr. HULSHOF. Mr. Speaker, I have no further requests for time, and I can assure my friend I will not use the entire 14 minutes to close.

Mr. Speaker, who has the right to close?

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HULSHOF) has the right to close.

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

Mr. POMEROY. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to H.R. 8, which continues, in my view, the policies by the majority of three tax cuts, in 4 years, with four straight record-breaking deficits that have added \$2 trillion in 4 years to the Nation's debt. And here again the majority offers \$850 billion of tax cuts to the wealthiest families in this country.

When you get in a hole that is \$2 trillion deep, rule one, stop digging. If you cannot figure that out, you cannot produce any more when it comes to economic growth for this country or jobs or resolving the health care crisis or the educational crisis we have in the country. My view is repeating the same mistake and expecting a different result is a sign that you have lost your bearings.

This bill will do nothing to stimulate the economic growth or savings, which is what we should be focused on, rather than further shifting the tax burden from wealth to work.

We could be debating and using this time on simplifying the code. Just 2 weeks ago there was a report out by the IRS and others showing that \$350 billion a year goes unreported in taxes where people are not complying and cheating.

We have a Tax Code that rewards and initiates a culture of cheating and penalizes those who abide by the rules. That is where we should be focusing, on simplifying the code and taking away the incentive to cheat, which is what we have today in our code.

With all the economic challenges we are facing today in the area of health care, energy, education, eliminating the estate tax, fully eliminating, should be the last of our priorities. But the Republicans will soldier on and continue to fight until taxes are eliminated for the very last multimillionaire. Instead of helping the wealthy avoid taxes, we should be helping middle-class families save for their retirement.

That is a true deficit we have in this country, a retirement and savings deficit. The savings rate is at its lowest level since the 1930s, lower than any other industrialized nation. Millions of families are financially unprepared for retirement.

Given this reality, why are we debating the elimination of the estate tax instead of real tax reform and a savings agenda for the middle class.

Are holding the interests of the wealthy and special interests above the hopes and dreams of the middle-class families the kind of values we want our Tax Code to reflect?

As late former Supreme Court Justice Louis Brandeis once said, "We can have democracy in this country or we can have great wealth concentrated in the hands of a few, but we cannot have both."

Mr. Speaker, there is no doubt which one this bill will achieve.

Mr. HULSHOF. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Miss MCMORRIS), a newly elected Member from the State of Washington.

Miss MCMORRIS. Mr. Speaker, I appreciate the opportunity to address the House today on this very important piece of legislation, the repeal of the death tax and making it permanent.

The repeal of the death tax is one of the first bills that I was honored to place my name on as a cosponsor.

Growing up on a family farm in eastern Washington, I have seen firsthand the negative impacts the death tax has on our families and our businesses.

One of my top priorities in Congress is to grow jobs and expand the economy in the Pacific Northwest.

□ 1630

I believe that the repeal of the death tax will help accomplish this goal, especially for the farmers and small businesses in my district.

The death tax costs thousands of jobs each year; and by repealing this unnecessary tax, jobs will be created and many small business owners will be able to add workers to their payrolls.

As a Member who represents a significant farming sector, I have seen the death tax destroy some family farms. Without a doubt, death taxes hurt our farmers and our ranchers by forcing family farms to sell land, buildings or equipment needed to operate their business in order to pay for this excessive tax. Some family farmers have had to take out a second mortgage on their home to pay for the tax.

When farms and ranches shut down, so do the businesses they support, leaving many out of work and leading to a depressed rural economy.

The time is now to end the death tax. I support the passage of H.R. 8 in order to end this unjust, unfair, and inefficient tax burden on our families, businesses and especially our farming communities.

Mr. POMEROY. Mr. Speaker, I believe we are at the end of our time, and I yield myself the balance of the time to close our side.

Mr. Speaker, I am feeling a bit like the man in the middle as we approach this debate. There has been some on our side that suggests the Pomeroy substitute provides too much estate tax relief. Indeed, the amounts are higher than acceptable. Obviously, we have heard from the other side they believe this is too low, but I would say to my friends in the majority, and listen to this carefully, those who approach this issue with an all-or-nothing mentality are likely to get nothing.

We cannot tell what is going to happen in the year 2010. None of us know. Except there is one thing we know, and look at this chart, the national debt is going to exceed \$10 trillion, \$10 trillion, 36 percent above where we are at today, and this is based upon established budget projections.

Do we really believe that that future Congress is going to sit blithely by and let this become implemented? There is not a nickel's worth of certainty in that. And we all know, because as damaging as this is to the budget in the first 10 years, with \$290 billion of revenue loss, debt service added, this is a \$326 billion hit to the budget in the first 10 years, look what happens in the second 10 years: \$1.3 trillion impact in the second 10 years when we count the value of the debt service.

Do any of us think that we are really going to allow this to happen in the future years?

That is why I have advanced a very different alternative, entitled certain and immediate estate tax relief, because it is certain and it is immediate, and it deals by taking the estate tax to \$6 million per couple, \$7 million per

couple by the time we get to 2009. It deals with the estate tax issues of 99.7 percent of the population.

Those of my colleagues looking at this chart may not be able to see this tiny red line, because that is what three-tenths of 1 percent represent with looking at the total population, three out of 1,000, and we know that on average those estates are going to average \$15 million.

So for three-tenths of 1 percent we offer an alternative that has no capital gains, that is one-quarter of the cost, that immediately phases in estate tax relief and is far and away the superior way to go. All or nothing gets us nothing. Vote Pomeroy, immediate and certain estate tax relief.

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

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

Let me first say, Mr. Speaker, how much I appreciate my friend from North Dakota as we have done this in a number of sessions of Congress, and I appreciate the tone, and he is a friend of mine, and I have a lot of respect for him and the intent with which he comes to this debate.

Let me answer a couple of points that have been raised in particular, first of all, about the tax simplification. Tax day is 2 days away, and I am sure taxpayers, in particular small businesses and family farmers, would appreciate anything that we can do to simplify our tax laws, and I would submit that permanent repeal of the death tax does just that.

In fact, H.R. 8 is one simple paragraph, and it reads as follows: "Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act." Basically, we repeal the sunset.

Now, again, the gentleman from North Dakota's (Mr. POMEROY) substitute, I counted, and I hope I am counting correctly, but 40 subparagraphs and directing accountants and the like to this subparagraph or that particular paragraph.

The reason that we are here is because of complicated and arcane Senate budget rules, called the Byrd rule, that we phase out the death tax for one single year. In 2010, it magically disappears, and then on January 1 of 2011 it springs back to life, and the uncertainty, how would one as an estate planner advise a client when the tax is gone today and comes back again in the very next year? By making death tax repeal permanent, we give taxpayers the certainty they need to make those long-term financial decisions.

The form itself, the blank form I am holding here, Form 706, is 40 pages in length for the estate tax return, 40 pages in length, and it comes with a handy dandy 30-page instruction booklet. So when one is talking about simplification, what better simplification would there be than ripping these pages dealing with the estate tax completely out of the Internal Revenue Code?

Lastly, when it comes down to the nuts and bolts of it, whether or not the Pomeroy substitute, and again, in the effort to pursue the American dream, whether those businesses are going to be shielded by the Pomeroy substitute or not shielded, the fact is that as long as the tax is on the books, as long as Congress draws some line in the sand, and that is all we are doing with the substitute, is just some arbitrary line, we are still going to have those family businesses that are going to be taking some of their resources and these convoluted schemes, legal, but efforts to avoid the tax.

Again, we hear a lot about these very high-profile individuals who have been successful. I mean, this is the land of opportunity, is it not? I would submit to my colleagues that the billionaires and the top of the Fortune 500 lists, those folks have a stable full of lawyers and accountants to create this intricate estate plan to thwart the estate tax.

Not so, and I go back to the original discussion, that small family in Columbia, Missouri, the Eiffert family who spends \$52,000 a year just to buy term life insurance because they might have to face the estate tax. Under the current law, or probably even under the gentleman from North Dakota's (Mr. POMEROY) substitute, there is no certainty for families like the Eiffert family.

So I salute my colleague.

The gentleman from Illinois (Mr. EMANUEL), again a colleague of mine on the Committee on Ways and Means, said, why are not we debating real reform? Interestingly, there is a lot of discussion. I am not here to advocate one particular tax reform proposal because we have got this blue ribbon panel that is happening and looking at various options. There is a lot of talk about the consumption tax, and yet it is notable that, while there may be support for the idea of a general consumption tax, the death tax, by contrast, is a tax on nonconsumption.

We talk a lot, too, about sin taxes. Why can we not put taxes on alcohol or on cigarettes and the like and whether or not that generates support among certain groups. This death tax is a tax on virtue. In other words, if you work hard, you play by the rules, if you scrape together your savings, and, again, we as an industrialized Nation, not only do we have even under the Pomeroy substitute a 47 percent death tax rate which would be the second highest in the world, but the fact is that we are not very good at savings and investments. In fact, if you are looking at your 1040 right now, look at line eight because it says if you have been thrifty and you are able to generate a little interest income, guess what, Uncle Sam says put this amount here because we are going to take our bite of the apple.

Permanent repeal of the death tax actually rewards virtue.

Let me just paraphrase a column recently, actually it was some years ago

but I think republished recently by Professor Edward J. McCaffery. He is a professor who says this: "As a committed liberal myself, I used to believe that the gift and estate tax was essential to a just society. But as a former estate planner and a scholar in both law and economics, I confess that I was mistaken. The gift and estate tax is quite simply a bad tax, even, and maybe especially, when viewed from a liberal perspective."

Professor McCaffrey goes on and says, "This is not a supply-side argument but a moral one. People who die with large amounts of wealth have done three good things for society. They have exercised their talents, rather than living a life of leisure. They have saved, contributing to a common pool of capital whose benefits manifest, for example, in lower interest rates, inure to all. And they have refrained from spending all of their wealth on themselves."

In fact, Professor McCaffrey across the Capitol some years ago I think before the Senate Finance Committee said, to paraphrase Scripture, the reason he changed his mind, I was blind but now I see.

If this comes from an unrequited liberal that the estate tax, the death tax, is a bad tax, then I would suggest to all of my colleagues here that it is time to permanently and completely repeal the tax.

Finally, I would say to my friend again, because there has been some discussion about creating a new tax, as the gentleman knows, the intent of H.R. 8, the underlying bill, is to help make it easier to pass a family business from one generation to the next. As we have heard from nonpartisan groups, 70 percent of family businesses do not make it to a second generation, 87 percent of family businesses do not make it to a third generation, and often the reason cited is because of this very confiscatory punitive tax called the death tax.

The fact is that under H.R. 8, if it were to pass and become the law of the land, the tax rate imposed at death on a lifetime of work and thrift is zero percent. Under my friend's substitute amendment, the rate imposed would be locked in at 47 percent.

Now I mentioned my personal experience, and I am running our family farm. If a surviving heir chooses not to farm and then makes the conscious decision to dispose of assets, then that is a taxable event, but that is a purposeful decision made by the heirs of that family business owner. It is not the Federal Government requiring the death of a family member to be a taxable event.

So I would simply say to all of my colleagues that death should not be a taxable event, period. Under the underlying bill of H.R. 8, it would no longer be a taxable event. Under the substitute from my friend, individuals above an arbitrary line drawn by this body, death would continue to be an

event that triggers the Federal death tax. That is why prominent organizations such as the Chamber of Commerce, National Federation of Independent Business, American Farm Bureau Federation and a host of other small business coalition members, representing the interest of small businesses and family farms across the country, support H.R. 8 and oppose my friend from North Dakota's substitute.

I urge a "no" on the substitute and a "yes" on the underlying bill.

Mr. KIND. Mr. Speaker, I rise today in strong support of making estate tax relief permanent so that family-owned farms and businesses can be passed down from generation to generation. The estate tax should be updated and modernized to reflect both the economic growth many Americans have experienced in recent years, and the hard work of millions of entrepreneurs and those just trying to make a living. These businesses should not be punished for being successful or for simply having their owners pass away.

The United States is the land of opportunity, encouraging free enterprise and rewarding entrepreneurs. The estate tax should be modified to protect family-owned small businesses and family farms from the threat of having to be sold just to pay the tax.

But, Mr. Speaker, H.R. 8 would fully repeal the estate tax for all Americans at a time when the administration is running record deficits that threaten the futures of our children's children. As we all know, the estate tax applies to fewer than 2 percent of all estates, about 50,000 a year. This bill would initially cost the Nation's treasury \$290 billion over 10 years.

This year alone, our budget deficit will exceed \$400 billion. This administration has turned a projected \$5.6 trillion surplus over ten years into deficits totalling \$2.6 trillion. However, even with these record deficits, we are debating yet another tax cut.

With the majority's policies leading our Nation toward a fiscal train wreck, we should not be talking about totally repealing the death tax and instead talk about doing something about the debt tax, which falls upon all Americans.

Therefore, I am supporting the substitute being offered by my good friend Mr. POMEROY. His legislation will immediately help the small businesses and family farms by increasing the estate tax exemption to \$3 million for individuals and \$6 million for couples. This meaningful, common-sense bill will exempt 99.7 percent of all estates from the estate tax. Under current law, the tax basis for inherited property is "stepped up" to its value at transfer through 2009, which helps farmers and small business owners who inherit property by reducing the amount of capital gains taxes to which the property is subject. Under current law, in 2010, "carry-over" basis rules (with a \$1.3 million exemption) replace the "stepped-up" basis rules, creating burdensome new requirements and increasing the tax liability for many of these property-owners. H.R. 8 makes this switch permanent and creates more losers than winners. The Pomeroy substitute, however, will retain the "step-up" rules rather than the "carry-over" rules.

Mr. Speaker, it is our responsibility to avoid towering deficits and reduce the debt future generations will inherit. We must give them the capability and flexibility to meet whatever problems or needs they face. I cannot, in good

faith, support legislation that will put our country further into deficit spending with a tax cut that will hurt future generations for the unforeseeable future.

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

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 202, the previous question is ordered on the bill and on the amendment in the nature of a substitute offered by the gentleman from North Dakota (Mr. POMEROY).

The question is on the amendment in the nature of a substitute by the gentleman from North Dakota (Mr. POMEROY).

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

RECORDED VOTE

Mr. POMEROY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 238, not voting 2, as follows:

[Roll No. 101]

AYES—194

|                |                 |                  |
|----------------|-----------------|------------------|
| Ackerman       | Filner          | Menendez         |
| Allen          | Ford            | Michaud          |
| Andrews        | Frank (MA)      | Millender-       |
| Baca           | Gonzalez        | McDonald         |
| Baird          | Green, Al       | Miller (NC)      |
| Baldwin        | Green, Gene     | Miller, George   |
| Barrow         | Grijalva        | Mollohan         |
| Becerra        | Gutierrez       | Moore (KS)       |
| Berkley        | Harman          | Moore (WI)       |
| Berman         | Hastings (FL)   | Moran (VA)       |
| Berry          | Herseth         | Nadler           |
| Bishop (GA)    | Higgins         | Napolitano       |
| Bishop (NY)    | Hinchev         | Neal (MA)        |
| Blumenauer     | Hinojosa        | Oberstar         |
| Boren          | Holden          | Obey             |
| Boswell        | Holt            | Ortiz            |
| Boucher        | Honda           | Owens            |
| Boyd           | Hoolley         | Pallone          |
| Brown (OH)     | Hoyer           | Pascrell         |
| Brown, Corrine | Inslee          | Payne            |
| Butterfield    | Israel          | Pelosi           |
| Capps          | Jackson (IL)    | Peterson (MN)    |
| Capuano        | Jackson-Lee     | Pomeroy          |
| Cardin         | (TX)            | Price (NC)       |
| Cardoza        | Jefferson       | Rahall           |
| Carnahan       | Johnson, E. B.  | Rangel           |
| Carson         | Jones (OH)      | Reyes            |
| Case           | Kanjorski       | Ross             |
| Castle         | Kaptur          | Rothman          |
| Chandler       | Kennedy (RI)    | Roybal-Allard    |
| Clay           | Kildee          | Ruppersberger    |
| Cleaver        | Kilpatrick (MI) | Rush             |
| Clyburn        | Kind            | Ryan (OH)        |
| Conyers        | Kucinich        | Sabo             |
| Cooper         | Langevin        | Salazar          |
| Costa          | Lantos          | Sánchez, Linda   |
| Costello       | Larsen (WA)     | T.               |
| Crowley        | Larson (CT)     | Sanchez, Loretta |
| Cuellar        | Lee             | Schakowsky       |
| Cummings       | Levin           | Schiff           |
| Davis (AL)     | Lewis (GA)      | Schwartz (PA)    |
| Davis (CA)     | Lipinski        | Scott (GA)       |
| Davis (FL)     | Lofgren, Zoe    | Scott (VA)       |
| Davis (IL)     | Lowey           | Serrano          |
| Davis (TN)     | Lynch           | Sherman          |
| DeFazio        | Maloney         | Skelton          |
| DeGette        | Markey          | Slaughter        |
| Delahunt       | Marshall        | Smith (WA)       |
| DeLauro        | Matheson        | Snyder           |
| Dicks          | Matsui          | Solis            |
| Dingell        | McCarthy        | Spratt           |
| Doggett        | McCollum (MN)   | Stark            |
| Doyle          | McDermott       | Strickland       |
| Edwards        | McGovern        | Stupak           |
| Emanuel        | McIntyre        | Tauscher         |
| Engel          | McKinney        | Taylor (MS)      |
| Eshoo          | McNulty         | Thompson (CA)    |
| Etheridge      | Meehan          | Thompson (MS)    |
| Evans          | Meek (FL)       | Tierney          |
| Farr           | Meeks (NY)      | Towns            |
| Fattah         | Melancon        | Udall (CO)       |

Udall (NM) Waters  
 Van Hollen Watson  
 Velázquez Watt  
 Visclosky Waxman  
 Wasserman Weiner  
 Schultz Wexler

Woolsey  
 Wu  
 Wynn

NOES—238

Abercrombie Gibbons  
 Aderholt Gilchrist  
 Akin Gingrey  
 Alexander Gohmert  
 Bachus Goode  
 Baker Goodlatte  
 Barrett (SC) Gordon  
 Bartlett (MD) Granger  
 Barton (TX) Graves  
 Bass Green (WI)  
 Bean Gutknecht  
 Beauprez Hall  
 Biggart Harris  
 Bilirakis Hart  
 Bishop (UT) Hastings (WA)  
 Blackburn Hayes  
 Blunt Hayworth  
 Boehlert Hefley  
 Boehner Hensarling  
 Bonilla Herger  
 Bonner Putnam  
 Bono Hoekstra  
 Boozman Hostettler  
 Boustany Hulshof  
 Bradley (NH) Hunter  
 Brady (PA) Hyde  
 Brady (TX) Inglis (SC)  
 Brown (SC) Issa  
 Brown-Waite, Istook  
 Ginny Jenkins  
 Burgess Johnson (CT)  
 Burton (IN) Johnson (IL)  
 Buyer Johnson, Sam  
 Calvert Jones (NC)  
 Camp Keller  
 Cannon Kelly  
 Cantor Kennedy (MN)  
 Capito King (IA)  
 Carter King (NY)  
 Chabot Kingston  
 Chocola Kirk  
 Coble Kline  
 Cole (OK) Knollenberg  
 Conaway Kolbe  
 Cox Kuhl (NY)  
 Cramer LaHood  
 Crenshaw Latham  
 Cubin LaTourette  
 Culberson Leach  
 Cunningham Lewis (CA)  
 Davis (KY) Lewis (KY)  
 Davis, Jo Ann Linder  
 Davis, Tom LoBiondo  
 Deal (GA) Lucas  
 DeLay Lungren, Daniel  
 Dent E.  
 Diaz-Balart, L. Mack  
 Diaz-Balart, M. Manzullo  
 Doolittle Marchant  
 Drake McCaul (TX)  
 Dreier McCotter  
 Duncan McCreery  
 Ehlers McHenry  
 Emerson McHugh  
 English (PA) McKeon  
 Everett McMorris  
 Feeney Mica  
 Ferguson Miller (FL)  
 Fitzpatrick (PA) Miller (MI)  
 Flake Miller, Gary  
 Foley Moran (KS)  
 Forbes Murphy  
 Fortenberry Murtha  
 Fossella Musgrave  
 Foxx Myrick  
 Franks (AZ) Neugebauer  
 Frelinghuysen Ney  
 Gallegly Northup  
 Garrett (NJ) Norwood  
 Gerlach Nunes

NOT VOTING—2

Gillmor Jindal  
 □ 1711

Ms. GINNY BROWN-WAITE of Florida, Ms. HARRIS, Mrs. DRAKE, and Messrs. COX, FORTENBERRY, TERRY and GARY G. MILLER of California changed their vote from “aye” to “no.”

Messrs. OBEY, MEEHAN and TOWNS changed their vote from “no” to “aye.” So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:  
 Mr. JINDAHL. Mr. Speaker, on rollcall No. 101 I was inadvertently detained. Had I been present, I would have voted “no”.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. SABO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 272, noes 162, not voting 1, as follows:

[Roll No. 102]

AYES—272

Aderholt Cuellar  
 Akin Culberson  
 Alexander Cunningham  
 Bachus Davis (KY)  
 Baker Davis (TN)  
 Barrett (SC) Davis, Jo Ann  
 Barrow Davis, Tom  
 Bartlett (MD) Deal (GA)  
 Barton (TX) DeLay  
 Bass Dent  
 Bean Diaz-Balart, L.  
 Beauprez Diaz-Balart, M.  
 Berkley Doolittle  
 Berry Drake  
 Biggart Dreier  
 Bilirakis Duncan  
 Bishop (GA) Edwards  
 Bishop (UT) Ehlers  
 Blackburn Emerson  
 Blunt English (PA)  
 Boehlert Everett  
 Boehner Farr  
 Bonilla Feeney  
 Bonner Ferguson  
 Bono Filner  
 Boozman Fitzpatrick (PA)  
 Boren Flake  
 Boswell Foley  
 Boucher Forbes  
 Boustany Fortenberry  
 Bradley (NH) Fossella  
 Brady (TX) Foxx  
 Brown (SC) Franks (AZ)  
 Brown-Waite, Frelinghuysen  
 Ginny Gallegly  
 Burgess Garrett (NJ)  
 Burton (IN) Gerlach  
 Butterfield Gibbons  
 Buyer Gilchrist  
 Calvert Gingrey  
 Camp Gohmert  
 Cannon Goode  
 Cantor Goodlatte  
 Capito Gordon  
 Cardoza Granger  
 Carter Graves  
 Castle Green (WI)  
 Chabot Gutknecht  
 Chandler Hall  
 Chocola Harris  
 Clay Hart  
 Coble Hastert  
 Cole (OK) Hastings (WA)  
 Conaway Hayes  
 Costa Hayworth  
 Costello Hefley  
 Cox Hensarling  
 Cramer Herger  
 Crenshaw Hinojosa  
 Cubin Hobson

Murphy  
 Musgrave  
 Myrick  
 Neugebauer  
 Ney  
 Northup  
 Norwood  
 Nunes  
 Nussle  
 Osborne  
 Otter  
 Oxley  
 Paul  
 Pearce  
 Pence  
 Peterson (MN)  
 Peterson (PA)  
 Petri  
 Pickering  
 Pitts  
 Platts  
 Poe  
 Pombo  
 Porter  
 Portman  
 Price (GA)  
 Pryce (OH)  
 Putnam  
 Radanovich  
 Rahall  
 Ramstad  
 Regula

Rehberg  
 Reichert  
 Renzi  
 Reynolds  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Ross  
 Royce  
 Rumpersberger  
 Ryan (OH)  
 Ryan (WI)  
 Ryun (KS)  
 Salazar  
 Sanchez, Loretta  
 Saxton  
 Schwarz (MI)  
 Scott (GA)  
 Sensenbrenner  
 Sessions  
 Shadegg  
 Shaw  
 Shays  
 Sherwood  
 Shimkus  
 Shuster  
 Simmons  
 Simpson  
 Skelton  
 Smith (NJ)

Smith (TX)  
 Sodrel  
 Souder  
 Stearns  
 Sullivan  
 Sweeney  
 Tancredo  
 Taylor (NC)  
 Terry  
 Thomas  
 Thornberry  
 Tiahrt  
 Tiberi  
 Towns  
 Turner  
 Upton  
 Walden (OR)  
 Walsh  
 Wamp  
 Weldon (FL)  
 Weldon (PA)  
 Weller  
 Westmoreland  
 Whitfield  
 Wicker  
 Wilson (NM)  
 Wilson (SC)  
 Wolf  
 Wynn  
 Young (AK)  
 Young (FL)

NOES—162

Abercrombie Higgins  
 Ackerman Hinchey  
 Allen Holden  
 Andrews Holt  
 Baca Honda  
 Baird Hoyer  
 Baldwin Insee  
 Becerra Jackson (IL)  
 Berman Johnson, E. B.  
 Bishop (NY) Jones (OH)  
 Blumenauer Kanjorski  
 Boyd Kaptur  
 Brady (PA) Kennedy (RI)  
 Brown (OH) Kildee  
 Brown, Corrine Kilpatrick (MI)  
 Capps Kind  
 Capuano Kucinich  
 Cardin Langevin  
 Carnahan Lantos  
 Carson Larson (CT)  
 Case Leach  
 Cleaver Lee  
 Clyburn Levin  
 Conyers Lewis (GA)  
 Cooper Lipinski  
 Crowley Lofgren, Zoe  
 Cummings Lowey  
 Davis (AL) Lynch  
 Davis (CA) Maloney  
 Davis (FL) Markey  
 Davis (IL) Marshall  
 DeFazio Matsui  
 DeGette McCollum (MN)  
 Delahunt McDermott  
 DeLauro McGovern  
 Dicks McKinney  
 Dingell McNulty  
 Doggett Meehan  
 Doyle Meek (FL)  
 Emanuel Meeks (NY)  
 Engel Menendez  
 Eshoo Michaud  
 Etheridge Millender  
 Evans McDonald  
 Fattah Miller (NC)  
 Ford Miller, George  
 Frank (MA) Mollohan  
 Gonzalez Moore (KS)  
 Green, Al Moore (WI)  
 Green, Gene Moran (VA)  
 Grijalva Murtha  
 Gutierrez Nadler  
 Harman Napolitano  
 Hastings (FL) Neal (MA)  
 Herseth Oberstar

NOT VOTING—1

Gillmor

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1727

Mr. RUSH changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109-43) on the resolution (H. Res. 211) providing for consideration of the Senate bill (S. 256) to amend title 11 of the United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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FLOODING OF THE DELAWARE RIVER

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

Mr. DENT. Mr. Speaker, I rise today to bring to this body's attention the terrible natural disaster that has recently occurred in my district in Pennsylvania. On April 2, heavy rains triggered substantial flooding of the Delaware River. The river overflowed in various local municipalities. Hardest hit were the small borough of Portland in Northampton county and the city of Easton, also in Northampton County.

I was back in my district at the time of the flooding. I toured the water-damaged areas extensively, visited with local residents, and was horrified by the destruction and heartbreak that this disaster has induced. Keep in mind all this occurred less than 1 year suffered from the devastating effects of Hurricane Ivan.

On April 9, in response to what I had seen, I wrote a letter to the President, asking him to declare the 15th district a Federal disaster area. The Governor of Pennsylvania also requested this relief, and I supported him in that request. I also keep in regular contact with our State and Federal Emergency Management officials in order to coordinate relief efforts.

I urge my colleagues to keep the citizens devastated by this natural disaster in their prayers.

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SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, in a country that espouses the importance of protecting the inherent rights of every person, abortion denies the rights of our most innocent and vulnerable members, our children.

As legislators, we have the great responsibility to strive to uphold the truths upon which our great country was founded, especially that every individual is entitled to life, liberty, and the pursuit of happiness.

Abortion is not a sign that women are "free to choose." It is a sign that women have been abandoned.

□ 1730

They have not had the support and care that they so desperately need. Rather, abortion is the only option offered.

Abortion is one of the greatest scourges of our time. It is a sign that we have not met the needs of women. Women deserve better than abortion. It is a crime against humanity which not only takes the innocent life of a child but also profoundly alters the life of the mother. Women possess dignity and intrinsic beauty, and abortion tears them apart at the very core of their being.

I am proud to have had the opportunity to join with such dynamic pro-life women as Patricia Heaton, the co-star of the TV show *Everybody Loves Raymond*. She is an outspoken advocate for women and for the protection of the rights of the unborn. This past week, I met with Patricia while she was in Washington meeting with Members of Congress and staff members discussing the crucial need that we have as a society to strive to address the real challenges facing pregnant women and promoting women-centered solutions to significantly reduce abortion and protect women's health.

I am pleased to be associated with organizations that work to increase public awareness of the devastation that abortion brings to women, men and their families. These organizations ensure that the emotional and physical pain of abortion will no longer be shrouded in secrecy and silence but rather exposed and healed.

This past year, the pro-life movement has enjoyed many major victories in Congress. We have seen the passage of legislation protecting the sanctity of life and addressing the critical needs of women. The Partial Birth Abortion Ban was signed into law by President Bush. The Unborn Victims of Violence Act also passed the House.

I have worked together with my colleagues here in Congress and with President Bush to defend the intrinsic rights of all citizens, especially the most defenseless. I am pleased to note that today the House Committee on the Judiciary held a markup of my bill, H.R. 748, the Child Interstate Abortion Notification Act, CIANA. It was referred favorably as amended out of

committee by a 20 to 13 margin and should be brought to the floor for a vote soon.

This critical legislation makes it a Federal offense to knowingly transport a minor across a State line with the intent that she obtain an abortion in circumvention of a State's parental consent or parental notification law. CIANA also requires that a parent or, if necessary, a legal guardian be notified pursuant to a default Federal parental notification rule when a minor crosses State lines to obtain an abortion, unless one of several carefully drawn exceptions is met.

A minor who is forbidden to drink alcohol, to stay past a certain hour or to get her ears pierced without parental consent is certainly not prepared to make a life-altering, hazardous and potentially fatal decision such as obtaining an abortion without the consultation or the consent of at least one parent.

My legislation will close a loophole that allows adults not only to help minors break State laws by obtaining an abortion without parental consent but is also, unfortunately, contributing to ending the life of an innocent child. We will close that loophole.

I am hopeful that in this 109th session of Congress we will be successful in securing the rights of parents once and for all, and I encourage my colleagues to vote in favor of this bill.

We have a great responsibility as a Nation to maintain a true reverence for vulnerable human life and to continue to build a culture of life. I will continue to work to ensure that the precious gift of life and the dignity of womanhood are promoted and protected at every level.

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RECORD TRADE DEFICITS CONTINUE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, congratulations to the Bush-Cheney administration. They set another record yesterday, but it is one I am certain they will soon eclipse. The United States of America ran the largest 1-month trade deficit in our history, \$61 billion. Tens of thousands of jobs were lost in order to achieve that record. Whole industries were exported to China and other cheap wage countries in order to set that record.

Congratulations to the administration. Their trade policy is a tremendous success for those few multinational corporations who are profiting hand-over-fist with these policies, while tens of thousands of Americans lose their job and we lose our industrial base here at home.

In the first 2 months of the year, a \$29 billion trade deficit with Communist China. We are on a par, the Bush administration is on a path, to beat their record trade deficit with

Communist China that they set just last year, a \$162 billion trade deficit with Communist China last year; a country which pirates products from small businesses across America, including a number in my district, both hi-tech, furniture and others; a country that does not observe international laws; a country that the Bush-Cheney administration told us, "Oh, please, give us permanent most-favored-nation status for those Chinese, and then they will clean up their act. Put them in the World Trade Organization and we will use the force of law against them."

Well, they have only chosen to file one complaints against the tens of billions of dollars of products pirated by the Chinese from American firms, and that was for one of the drug companies, of course. Who else would they go to bat for? Not the small businesses, not the hi-tech business in my district, not the furniture business in my district, not the other businesses across America. Yet their trade policy is working just great.

Now they say two things. Well, if the dollar just drops a little bit, everything will be fine. Well, the dollar has dropped a lot, and everything is not fine, and the dollar is on the verge of dropping one whole heck of a lot more. Even when it gets down to the value of an Indian rupee, it still is not going to solve the trade problem. Because the classic economic theory is, well, if your currency is devalued, then your manufacturers will crank things up and your goods will be bought overseas. That will not happen for two reasons:

One, we do not make things anymore, and many of our companies have moved their industrial base to China and many more are contemplating doing that or being forced to do that, or to Mexico or to other countries where they can exploit labor better. So, for that reason, it is not going to happen.

Second, because the Chinese will not allow our goods in, and they have illegally pegged their currency to ours, so their currency is artificially cheap. It falls with the dollar, so we can never catch up with the Chinese. And the Bush administration has refused to do anything about those illegal actions by the Chinese, the illegal pirating of U.S. goods, theft of jobs, illegal currency manipulations by the Chinese.

The Bush administration will not do anything because a few big companies and contributors are doing very well over there. It is just to the detriment of the majority of the workers and people here at home in the United States of America.

They say there is another reason why the trade deficit is so big, because our economy is growing so fast, faster than other economies. That is why we got a big trade deficit.

Well, that is an interesting argument. So we are borrowing a bunch of money from the Chinese, they are now our second largest international creditor, soon to be our largest, the Japa-

nese are number one, and we use that money which we borrow from them to buy goods that used to be produced in the United States of America. And since those are produced nominally by American corporations, that shows growth here at home.

In the meantime, here at home people are unemployed, running up their credit cards, they have lost their jobs to unfair Chinese competition, and that shows what a robust and growing economy we have.

What a disaster this is for the working people of this country. What a disaster this is for the future industrial might of the United States of America, for our productive capacity. What a disaster it is going to be when the dollar tanks and oil goes up even more because the dollar will have been devalued so much.

There are so many things wrong with this laissez faire trade policy it is hard to know where to start, but the Bush administration thinks it is working just fine because they set a new record yesterday, the largest 1-month trade deficit in the history of the United States of America, and they are hoping they beat it every month this year and beat last year's record trade deficit, because that means jobs are exported, and, in the words of the President's former economic adviser, that is a good thing when we export jobs. It makes the country more efficient.

#### IN SUPPORT OF LT. ILARIO PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I spoke last night about a marine that I have in my prayers each and every night, Second Lieutenant Ilario Pantano. Lieutenant Pantano has served this Nation in great honor in both the first and second Gulf wars. From my personal experience with him, I know that he is a dedicated family man and a man who loves the Corps.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch and, in an act of self-defense, he had to resort to force.

Two and one half months later, a sergeant under his command, who never saw the shooting, accused him of murder. Lieutenant Pantano now faces charges of two counts of murder.

Mr. Speaker, what is happening to this young man is an injustice. In a combat fitness report, his superiors praised his leadership and talent, and he was by all accounts an exceptional marine.

Mona Charen, a respected Washington journalist, wrote the following about this case: "Obviously, the United

States cannot turn a blind eye to war crimes. If a soldier lines up civilians in front of a pit, My Lai style, and massacres them, he would richly deserve, and every self-respecting American would demand, a court martial." She further states, "But, good Lord, by what possible standard can this be called murder? Pantano was in the middle of a war zone, not a vacation on the Riviera. He had been dodging ambushes and booby traps for weeks. He had seen his comrades killed and maimed. Perhaps," according to Ms. Charen, "he acted too hastily in shooting those Iraqis. But a murder charge? Has the Marine Corps gone PC," politically correct?

The Washington Times even wrote an editorial on Lieutenant Pantano. They said: "Lieutenant Pantano is straight out of some romanticized war story. The 33-year-old Hell's Kitchen native left a six-figure salary in New York City to serve his country. His mother says of him, 'If he has a fault, it is that he is too idealistic and puts moral responsibility and duty to his country and his men before anything else.' For that," further quoting, "Lieutenant Pantano faces criminal charges that could result in death.

"At a time when the military is being stretched, the Pantano case sends all the wrong signals to servicemen. Finding a few good men will only get harder and harder if overzealous lawyers are permitted to intimidate the troops. In an army, that is a losing formula."

That a quote from the Washington Times.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces these allegations. I hope that my colleagues in the House will take some time to read my resolution and look into this situation for themselves. Lieutenant Pantano's mother has a Web site that I am encouraging people to visit. The address is [www.defendthedefenders.org](http://www.defendthedefenders.org).

Mr. Speaker, I hope and pray that when Lieutenant Pantano faces his Article 32 hearing on April 25, he will be exonerated for all the charges. Because, Mr. Speaker, to put doubt in the minds of our soldiers is to condemn them to death.

Mr. Speaker, I close by asking the good Lord to please bless our men and women in uniform, to please bless their families, to bless the families who have given a child dying for freedom, and I ask the good Lord to please help Lieutenant Pantano as he faces these charges.

I have written the President of the United States and asked him to please look into this matter. I did get a courtesy response back, but no more than that.

I do say as I close, please, God, continue to bless our men and women in uniform.

PEACEFUL CREATION OF  
DEMOCRACY IS POSSIBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week Victor Yushchenko, the new president of Ukraine, spoke to a joint session of Congress. We were lucky to have received such a distinguished speaker, one who has done so much to encourage democracy over the last year, even overcoming a vicious poison attack by those who opposed his calls for democratic reform in the Ukraine.

Mr. Yushchenko led the people of Ukraine through what is called the Orange Revolution. Ukrainian protestors bravely rejected an illegal and predetermined presidential election and demanded a new one.

Since he took office after winning the second election, Ukrainians have been getting serious about fighting corruption, promoting fair competition and demanding transparent government business relations. Peaceful creation of democracy is possible.

□ 1745

As I listened to President Yushchenko, I could not help but note the irony that a man who has encouraged democracy through such peaceful and nonviolent means had been invited to speak to a joint session of the U.S. Congress, which is still working with the White House to create a democracy in Iraq through the barrel of a gun. The irony is that Ukraine, an Eastern European holdover from the Soviet Union's Communist bloc, understands the inner workings of democracy better than the President and Congress of the United States.

I believe that the war in Iraq flies in the very face of democratic governance. Instead of upholding the tenets of democracy, the war in Iraq has violated democracy's core principles to a degree unimaginable when the U.S. declared war in March 2003. In January 2005, the Iraqi people held their first election in over 50 years, and I congratulate them for their bravery in accomplishing this feat. But the ends do not justify the means. From the very beginning, the President's case for invading Iraq was based on false premises and manipulations of the truth, hardly the stuff democracies are made of.

We know now, and many of us knew back in 2003, that Saddam Hussein did not pose a threat to the United States. He never possessed ties to al Qaeda's terrorist network, and no weapons of mass destruction have ever turned up in Iraq. In fact, earlier this year, President Bush officially called off the search for the missing weapons of mass destruction. These are shameful and truthless grounds for fighting a war that has, so far, cost the lives of more than 1,500 American troops and tens of thousands of innocent Iraqi civilians, not to mention more than 12,000 American soldiers who have been severely and permanently wounded in the war.

The cost to our Nation's treasury has been just as staggering. After Congress puts the finishing touches on the latest supplemental appropriations bill, this war's total cost will amount to more than \$200 billion in just over 2 years. Mr. Speaker, \$200 billion in 2 years. Just think about that amount. Adjusted to inflation, the combined costs of the Korean War, the Vietnam War, and the first Gulf War are easily eclipsed by the war in Iraq.

Sadly, a vicious insurgency still plagues the Iraqi people and America's brave soldiers on a daily basis. Yet President Bush seems to think that everything in the Middle East is going just fine. Yesterday, the President stated, and I quote him, "More than 150,000 Iraqi security forces have been trained and equipped and, for the first time, the Iraqi Army, police, and security forces now outnumber U.S. forces in Iraq." Well, then, here is the question: Why do our young men and women continue to remain in Iraq if the Iraqi people are prepared to handle their own security? Why do our young men and women continue to die in staggering numbers if the Iraqi Army, police, and security forces are trained and equipped?

The flip side of the President's boasts is that the American military presence is not helping matters. That is why, with the support of 30 of my House colleagues, I have introduced H. Con. Res. 35, legislation that calls for the U.S. to withdraw its military forces from Iraq. Let me be clear: the U.S. should not abandon the country it voluntarily invaded; but instead of maintaining a military presence in Iraq, we must invest in humanitarian and developmental aid that is so crucial in the peaceful advancement of a young democracy.

Mr. Speaker, it is time to change direction in Iraq. We must begin to bring our troops home. It is time to give Iraq back to the Iraqis. If we need some guidance, I recommend taking a page out of the Ukrainian playbook on building a democracy. Because when it comes to advancing democracy, Ukraine seems to understand what many Members of the U.S. House of Representatives do not.

REMOVAL OF NAME OF MEMBER  
AS COSPONSOR OF H.R. 513

Mr. BISHOP of New York. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 513.

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

There was no objection.

THE PHARMACEUTICAL MARKET  
ACCESS ACT OF 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again tonight to talk about the high cost of prescription drugs here in the United States relative to what the rest of the people in the industrialized world pay for the same drugs.

Recently there was an article in The Wall Street Journal which talked about how much name-brand prescription drugs have gone up just in the last year; and I think in that article they said over the last 5 years prescription drugs have gone up more than twice the rate of inflation. In fact, I think it is more like three times the rate of inflation. These are drugs that have been on the market for a long period of time, and the research costs were paid for a long time ago.

Recently, I got some research together from some pharmacies in three cities of five of the most commonly prescribed drugs in the United States. First, Lipitor, which is a drug which is made in Ireland. Every single tablet is made in Ireland, and it is exported around the world. The price of a 30-day supply of Lipitor in London, England, was \$40.88. That same drug in Athens, Greece, was \$55.65; and in the United States, \$76.41.

The next drug here is Nexium, the new purple pill: 30 tablets, twenty milligrams, London, \$42.23; Athens, \$57.09; the United States, \$138.06.

We compared the prices of Previcet, Zolof, and Zyrtec. If you add them up, the price of those five drugs in London, \$195.95; in Athens, those same five drugs, \$231.04; but here in the United States, \$507.96.

Why is this important? Well, this year, according to the head of pharmacology at the University of Minnesota, Dr. Steve Schondelmeyer, according to him, this year, Americans will spend \$200 billion on prescription drugs. And if you compare what Americans pay for the same name-brand drugs compared to the industrialized countries around the rest of the world, we are paying at least 30 percent more. In fact, I think it may be more like 50 to 75 percent more, but let us take 30 percent. Thirty percent of \$200 billion is \$60 billion.

I believe if we treated prescription drugs the way we treat every other product and allowed Americans to have access to those drugs and those products as we do with other products, you would see prices in the United States drop dramatically.

That is why I have reintroduced a bill that has passed several times; in fact, we have improved it this year, made it even safer, the Pharmaceutical Market Access Act of 2005. I hope Members will go to my Web site at gil.house.gov, get the facts, take a look at these charts, get a copy of the bill, and decide to become a cosponsor. It is important, because we need to send a message that Americans deserve to have world-class access to world-class drugs at world-market prices, and when we do, we will see the prices here in the United States reflect more what is the average among the industrialized world.

So I hope my colleagues will join me. Go to my Web site at [gil.house.gov](http://gil.house.gov); there is a lot of information there. We have about 70 sponsors right now; we would like to get that to 220. Please join me in the Pharmaceutical Market Access Act of 2005.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ORDER OF BUSINESS

Ms. CORRINE BROWN of Florida. 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 Florida?

There was no objection.

#### PRIORITIES: VETERANS, BANKRUPTCY, AND THE ESTATE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to comment on the Republicans' priorities. Many of them talk about protecting veterans and making sure that veterans have the support they need when they return from protecting this country's freedom in Iraq.

Today the House passed H.R. 8 to make permanent the repeal of the estate tax. This bill will cost the American taxpayers \$295 billion over the next 10 years. The cost on the first 2 years could go as high as \$1 trillion.

This bill gives a tax break to the wealthiest three-tenths of 1 percent of estates, while imposing a new capital gains tax on most of us, including small business owners and farmers. At the same time, the Republicans passed a budget that calls for \$800 million in cuts to the VA over the next 5 years.

Clearly, the Republicans are attempting to balance the budget on the backs of the veterans.

Tomorrow, this same House will vote on bankruptcy legislation that does not protect our veterans. Many of our servicemembers, especially the citizen soldiers of the Guard and the Reserve forces, face terrible financial problems because they do not qualify for a narrow protection of debt incurred while on duty if S. 256 becomes law.

Since 9/11, approximately half a million Reservists and Guardsmen have been called to active duty, some more than once. Hundreds of thousands of Reservists and National Guardsmen are currently activated in support of the ongoing military operations. According to the National Guard, four out of 10 members of the National Guard and Reservist forces lose income when they

leave their civilian jobs for active duty.

The people of this country need to see what policies the Republicans actually vote for. They talk the talk very well, but they do not walk the walk or roll the roll for our veterans who have sacrificed their bodies for this Nation.

Today, the gentleman from Illinois (Mr. EVANS), our ranking member, filed a bill for mental health for our veterans. It is clear that they are slipping through the cracks, and we need to focus our attention on how to assist veterans returning from the war, whether it is economic, whether it is health care, or whether it is to make sure that they have their jobs and have a seamless transition.

We need to do more than talk the talk. We need to make sure that our money follows all of this rhetoric we have on the floor constantly about how we support the veterans. It should not be just talk, but it should be our actions.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ORDER OF BUSINESS

Mr. BOUSTANY. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

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

There was no objection.

#### TOUGH ISSUES FACING LOUISIANA FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BOUSTANY) is recognized for 5 minutes.

Mr. BOUSTANY. Mr. Speaker, I rise today on behalf of the farming community of southwest Louisiana. During the March district work period, I held community meetings in all eight parishes of my district to discuss issues facing my constituents. At each meeting, farmers and their families filled the rooms to ask for help.

Farming in Louisiana is not just a job for these men and women, Mr. Speaker. They love the land that they work, and they want to ensure that their livelihood is preserved for generations to come, but they are struggling to survive. Unless Congress can come to their aid, these farmers may not be in business by the end of the year.

Let me give some examples. Steve Broussard is a banker in my district and Steve works with farm loans for local growers, and he told me four rice farmers in our district have been forced to quit already this year. By the end of

this season, eight more could be out of business. For a rural community, farms are the foundation of a local economy. The closure of a single farm means the loss of a customer for many local businesses and a reduction of revenue for schools, public utilities, and hospitals in these communities.

Cindy Lahaye works in a hospital in Mamou, Louisiana; and Cindy told me that in this town of 3,500, they are feeling the ripple effect at their rural hospital because the surrounding farming community cannot afford health care at this time. This is a problem that begins with our farmers and affects every one of us.

In my recent conversations, I asked my constituents for input and suggestions on what could be done to provide relief for our farming community. First and foremost, Mr. Speaker, we must reopen important markets that have been closed for various political reasons. I had a farmer in Ville Platte, Louisiana, who told me, I have bins full of rice, but I am broke. Bumper crops in the past few years have caused prices to drop, and with a new crop going into the field, there is no place to move the surpluses from the past 2 years. Iraq, Iran, and Cuba were all some of the largest importers of U.S. rice, and all three of these export markets remain restricted.

Cuba, for example, had resumed importing agricultural commodities from U.S. farmers because of the provisions in the Trade Sanctions Reform and Export Enhancement Act of 2000. A recent ruling by the Office of Foreign Assets Control threatens to derail this re-emerging market. My colleague from Missouri has introduced a bill that could provide immediate relief for the rice farmers of my district. H.R. 1339 amends the Trade Sanctions Reform and Export Enhancement Act of 2000 to clarify allowable payment terms for sales of agricultural commodities and products to Cuba.

□ 1800

I am proud to cosponsor this bill, and I pledge my support for this legislation.

Secondly, taxpayer dollars dedicated to the United States Agency for International Development and the PL 480 program should be used to purchase U.S. commodities and not foreign food. The program serves two purposes. One, it provides emergency and non-emergency food aid to countries in need; and, secondly, the program helps American farmers since the money is used to purchase American agricultural products.

Wynn Watkins of Jefferson Davis Parish, Mr. Speaker, told me this. Congressman BOUSTANY, he said, all we have here is rice. It is the busiest time of the year for us, and we all came out of our fields to hear you speak today. We are being asked to send our boys to Iraq and Iraq cannot take our rice. Where is the justice in that? I agree with Wynn Watkins, Mr. Speaker.



USAID's budget proposal would transfer \$300 million of the agency's \$1.2 billion of food aid funding for 2006, and the transferred funds would be used to purchase foreign food for emergency relief. As a member of the Committee on Agriculture, I am opposed to this transfer.

Third, we need to improve the counter cyclical payment process. A higher-than-expected final price for rice in 2004 significantly reduced last year's payments. Many farmers mistakenly based their budgets and capital investments on information found on the National Agriculture Statistics Service Web site. The number had not been adjusted for 3 months, and the USDA and the NASS need to reform their calculation and communication strategies to avoid future such incidents. I have asked Secretary Johanns to look into this, and I urge him to be flexible with the farmers who must repay these advances.

Fourth, rising fuel prices and the surging cost of fertilizer have nearly doubled the cost of production for the farmers in my district. We must pass a long-term, comprehensive energy policy. Abundant, affordable and reliable energy is critical, critical to the success of our agriculture industry.

And, finally, we must honor the promises made to our farmers in the 2002 farm bill. Larry Sarver, from Crowley, Louisiana, told me that in 2002 he had a 6-year agreement with the Federal Government and he made budget and capital investment decisions. We need to protect this farm bill.

#### RISING PHARMACEUTICAL PRICES

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, my colleague, the gentleman from Minnesota (Mr. GUTKNECHT) was up here a moment ago talking about the price of pharmaceutical products and how they have been rising and increasing and ever going up, three, four times the rate of inflation.

There was this report done by AARP the other day that was covered in USA Today and on the news about how pharmaceutical prices had in the last year gone up close to about three times the rate of inflation.

The truth is, over the last 5 or 6 years pharmaceutical products have gone up somewhere close to four times, three times the rate of inflation. And every one of us know people in our district who go to get their prescriptions filled. They got them last month or they got them 2 months ago, same pills, same amount of dosage, nothing different, and the price is up 40 bucks. And there is nothing to explain how that went up \$40. And senior citizens who are on a fixed income, families who are on a fixed income and they have a sick child cannot afford a health

care cost that is rising close to three times or four times the rate of inflation.

Now, last Congress, Democrats and Republicans came together, not because it was a Democratic idea or not because it was a Republican idea, because it was the right idea, to offer reimportation of pharmaceutical products, allowing people to go to Canada and go to Europe to buy pharmaceutical products that are 50 percent cheaper than they are here in the United States, or go to England, go to Ireland.

All over Europe and Canada the same drugs that we find on our shelves at our local pharmacy are 50 or 40 percent or 60 percent, depending on what you want, cheaper than they are here. I have on my Web site in my congressional office a Costco in Chicago and a Costco in Toronto. And the same Costco, we compared the same pharmaceutical products most used by senior citizens for arthritis, blood pressure, other types of medications they need. And the Costco in Canada offers, on average, 52 percent savings for the same products that you could buy at Costco in Chicago.

We are separated by a little over 200 miles. But they saved 50 percent on their needs of their medications, whether it is Lipitor or other type of products. And why? Because it is the only product in this country that is a closed market, forcing American consumers to pay a 50 percent premium for the products that their dollars spent paid for the research.

We developed those drugs here in this country. We gave a tax credit to these companies to develop those pharmaceutical products, and we have the dubious honor to pay a 50 percent premium over Canada and Europe. So what has happened is that the American senior citizens, the American taxpayers, are subsidizing the poor, starving French and German and Swiss and Dutch. We have got to come to an end to this and allow people to have the access to the free market.

We are going to negotiate and discuss China trade, other types of trade deals where everybody here is going to talk about free trade except for one product. What? Pharmaceutical products, the product on which the United States pays more than it does on television, more than it does on consumer electronics, more than it does on food, more than it does in other areas. Why? Because we have a closed market.

What we are trying to do, Democrats and Republicans are trying to allow the principles of the free market to work, bringing competition and choice to bear. If you did that, then the American consumer and taxpayers would see a dramatic drop in their prices. And we are not being allowed to vote on that. Why? Because the pharmaceutical industry is giving you the best government they can buy. They have stopped us and the ability to bring that vote. If we did, we would pass that vote here. We would pass it in the Senate.

But the American people are on to what is happening. They know that we need to deal with this because we cannot continue to subsidize the rest of the world, both on the research side and on the price side; and that is what is happening.

We know it is safe because over a million seniors a year go over the border to Canada. We turn them into illegal drug runners. Go over the border to Canada and a billion dollars worth of trade and get their pharmaceutical products, and not one of them has ever gotten sick.

But what we are talking about is bringing Canadian cattle that we know is tainted, some of it, with mad cow disease. Now that we allow in. Accessing pharmaceutical products in Canada, Lipitor, other drugs on the Canadian market that is 50 percent cheaper, that is against the law. That policy has been brought to you by the United States government.

It is time to allow Democrats and Republicans to come together to bring common sense policies and the principles in government to work. Principles in business, businesses always allow competition. They find the cheapest price they can. We can get cheap prices and stop having the taxpayer subsidize too high a price.

My colleague, the gentleman from Minnesota (Mr. GUTKNECHT), and I have introduced this legislation. Other Democrats and Republicans are on it. And, again, it is not about politics. It is not about partisanship. In the last Congress, 88 Republicans and 153 Democrats came together, passed it, not once, not twice but three times. We will do it against this year.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ORDER OF BUSINESS

Mrs. BIGGERT. 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.

#### IN RECOGNITION OF HERMANN A. GRUNDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, I rise today to honor a man whose spirit and dedication to the world of science inspired him to give more than four decades of tireless service to the Nation as a scientist, administrator and a leader.

This week Dr. Hermann A. Grunder will retire as Director of Argonne National Laboratory, a leading Department of Energy science laboratory that I am proud to say is located in my congressional district in Illinois. I have had the privilege of working closely with Dr. Grunder over the course of the last 5 years during his tenure at Argonne, and so I speak with personal knowledge and affection when I say that Hermann has left an indelible stamp on Argonne, the quality of life in my district, the DOE complex and the Nation.

There is no doubt that he has created a positive and lasting legacy, both nationally and internationally, and I would like to take this time to pay tribute to his many achievements and wish him well on the occasion of his retirement.

Dr. Grunder first entered the DOE system in 1959 at Lawrence Berkeley Laboratory in California. After a short break to complete his Ph.D at the University of Basel in Switzerland, he returned to Berkeley as a physicist in 1964 and has served the Nation ever since. At Berkeley, his scientific excellence, vision and leadership earned him executive positions of increasing responsibility.

In 1985, he left Berkeley to become the first Director of the Thomas Jefferson National Accelerator facility in Virginia, which he helped to build from the ground up literally. Today, the Jefferson lab is one of the Nation's leading accelerator laboratories.

In 2000, Dr. Grunder became Director of Argonne. The first thing I noticed when I met Hermann was his energy and enthusiasm for science. It is infectious. As a long-time member of the Committee on Science and chairman of its Subcommittee on Energy, I have had the good fortune of meeting many of the Nation's most talented scientists; and I can say without a doubt that Hermann's passion for science and his dedication to DOE's system of national laboratories stands out among the crowd.

As Argonne's 10th Director, Dr. Grunder strengthened the laboratory by renewing senior management at the highest level and grooming the laboratory's next generation of leaders. Through his active efforts to encourage strong research ties between Argonne and regional universities and Fermilab, Dr. Grunder greatly enhanced the Midwest's reputation as a world center of advanced scientific research and development. These collaborations are expected to trigger new scientific, technological and economic benefits for Illinois and the Nation, while providing students from Illinois and around the world with a greater role in research at Argonne.

While at Argonne, Dr. Grunder emerged as an international advocate for safe, proliferation-free nuclear energy, a strong steward of DOE's unique user facilities at our national labs, and a keen supporter of biosciences and technology's role in homeland security.

Under his leadership, Argonne reviewed ongoing research in the aftermath of September 11 and identified many potential ways this research could improve our homeland security. Since then, Argonne has contributed to hundreds of research initiatives designed to anticipate, detect and counter terrorist acts.

It came as no surprise in 2004 when Energy Secretary Spencer Abraham chose to honor Dr. Grunder's career with the DOE laboratory system by presenting him with the Secretary of Energy's Gold Award in recognition of his tireless engagement on issues of national importance, including nuclear energy, national security and international user facilities.

The DOE and the Office of Science recognized how extremely lucky they were to have a true champion like Dr. Grunder on their team for so long; and we in Illinois were very, very lucky to have had such an outstanding professional at the helm of one of our two outstanding labs for the last 5 years.

Mr. Speaker, Dr. Hermann Grunder has contributed greatly to the DOE laboratory complex, my district, and the State of Illinois and our Nation. His commitment and industrious efforts as a public servant serve as an inspiration to us all. I know that his presence at Argonne will be greatly missed, but I am confident that with his abundant energy and zeal for science he will continue to do great things in the scientific community for years to come.

Today I congratulate Dr. Grunder on his retirement and wish him all the best in his many future endeavors.

#### SENTENCED TO SERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I rise to alert the American people to the case of Emiliano Santiago. His case, his plight should be known and feared by every high school junior and senior across the country, as well as every parent and every guardian.

Emiliano Santiago is a 26-year-old soldier from Seattle who proudly and bravely served his country for 8 years immediately following high school. His 8-year commitment to the United States military was up a few months ago, or at least so he thought. That is when Emiliano Santiago discovered that Secretary Rumsfeld's secret back door draft existed. Despite 8 years in the military, despite fulfilling his commitment to his country, Emiliano cannot leave the military. Emiliano Santiago cannot leave the military this week, this month or any year in the future for some time to come. Emiliano Santiago cannot leave the military this decade or the next decade.

The ugly little secret in the Pentagon is that Emiliano Santiago's vol-

untary service is involuntary. He has been sentenced to serve. The ugly truth of the matter is simply this: He is forced to serve at the whim of Rumsfeld potentially until Christmas Eve in the year 2031. Emiliano Santiago signed up in 1996. He has been sentenced to 35 years of service under Mr. Rumsfeld.

□ 1815

He is now subject to the whim of Mr. Rumsfeld. He will be in his fifties before he can escape from Mr. Rumsfeld's grasp.

Do you think anyone told Emiliano what he was getting into? Not a chance. Welcome to the myth of the voluntary military service under Donald Rumsfeld. He cannot find enough soldiers so the Pentagon is forcing those already in service to stay whether they want to or not, whether they have jobs, family, or plans of their own.

Emiliano is owned by Mr. Rumsfeld. Welcome to the volunteer Army. They call it stop-loss. It is an involuntary military service. Just ask Emiliano and 50,000 other U.S. soldiers. Yes, 50,000 soldiers who signed up in what they thought was a voluntary military cannot now voluntarily leave the military at the end of their commitment.

Stop-loss is Rumsfeld's legalese for a backdoor draft. It is legal, real; and do not let anyone, especially military recruiters, tell you otherwise.

A recruiter signed up Emiliano. The recruiter was saying, Sign up here for 8 years. He never explained to me of the possibility of stop-loss. No one told Emiliano of the backdoor draft. And Americans are just finding out about the recruiter provision found in the No Child Left Behind Act. Or as I call it, No Child Left Un-recruited. High schools must turn over high school student contact information or lose funding. Now, there is the makings of the voluntary Army.

Rumsfeld has unlimited power to keep you in the military, and the military now has unlimited access to your son and daughter. Forget about any right to privacy. This is America under Republican leadership. If you are in high school right now, the military has your name, your address, and your phone number. If you are in Rumsfeld's military, he has you for decades. It is the new Republican definition of family planning. Ask Rumsfeld what you are doing for the rest of your life.

It is wrong and it is not working. Recruitment in the Army National Guard plunged 31 percent in February and another 12 percent in March. The word is spreading. America's all-voluntary military has been replaced by Rumsfeld's sentence-to-life military.

I served my country as an officer in the United States Navy. I am proud of my military service and proud of anyone who serves America in the military. But today's honor and duty are being distorted into recruiter mandates to find more bodies. The National

Guard is adding another 1,400 recruiters.

I want to be clear about this. Do not blame the recruiters. It is not their fault. They are doing what good soldiers do: follow orders. Being a recruiter used to be a plum job, reserved for only the best of the best. They were soldiers who were models for American military pride. But Rumsfeld has turned them into overworked, overstressed, overzealous representatives with quotas to fill and truth to stretch.

I want the U.S. military at its finest. I want recruiters back to what they can be: role models for America whether someone chooses to join the military or whether decides instead to be proud of the military.

We are not doing that today. We are taking names of literally every high school student in America. Demand that the No Child Left Behind Act apply only to education and not to recruiting. Until then, get the paperwork and opt out, either for yourself or your kid. You can find it at [www.militaryfreezone.org](http://www.militaryfreezone.org). Let me give it again: [www.militaryfreezone.org](http://www.militaryfreezone.org).

Take back your right to the personal privacy that used to be guaranteed by your government. Emiliano Santiago is looking forward to Christmas Eve 2031. That is when he is finally out of Rumsfeld's grasp. We used to have a voluntary military. Now we have Rumsfeld's military. It is a sentence to serve.

#### ILLINOIS TENTH DISTRICT STUDENTS AID TSUNAMI VICTIMS

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to recognize the efforts of schools in the Tenth Congressional District of Illinois who together raised over \$600,000 for tsunami victims halfway around the world.

Student councils, community service clubs, entire students bodies from all around our district have held fundraising events and collections in ongoing efforts to benefit the American Red Cross, UNICEF and countless other relief organizations.

I want to highlight the work of Dan Klein, who attends St. Viator High School in Arlington Heights, Illinois, who set out modest goals for his work. Daniel took \$300 of his own money and with some help from his parents ordered 1,000 red rubber bracelets with "Students for Relief" embedded on them. Thinking he could send a small donation to the battered region from bracelet sales, Daniel's efforts led to anything but small. He has sold over 450,000 bracelets via his Web site, [www.studentsforrelief.com](http://www.studentsforrelief.com), and raised over \$500,000 for tsunami victims.

Many other young people across my district exemplify American generosity. Prospect High School students in Prospect Heights raised over \$500,000

to help rebuild Nagapattinam, a small shoreline town in Southeast Asia where their school custodian is from.

Students at Loyola Academy and Regina Dominican High School in Wilmette raised a combination of \$14,000 for their relief efforts.

Deerfield High School students raised \$3,500 for the American Red Cross through bracelet sales.

Student council and Model U.N. organizations at Fremd High School in Palatine raised over \$500 for UNICEF.

Highland Park High School's Key Club and Transitional Program of Instruction raised \$570 for UNICEF.

Students organizations from Glenbrook North High School in Northbrook organized a 2-day fundraising drive that raised \$10,000 for the American Red Cross.

Students from Glenbrook South High School in Glenview raised over \$8,000 for the American Red Cross.

The Service Over Self Club at John Hersey High School in Arlington Heights raised \$1,500 for the Red Cross.

The student council and Red Cross Club at Lake Forest High School organized homeroom competitions and a number of themed events and dances raising \$5,000 for the Red Cross.

The Student Council at Libertyville High School raised nearly \$5,400 for Oxfam USA/International.

New Trier High School in Winnetka initiated a bracelet, pizza and bake sale, along with a study-a-thon netting over \$10,000 for relief efforts.

At Rolling Meadows High School the student council, National Honors Society, and Students Of Service raised \$2,000 for the Red Cross during their 2-week fund raising effort and also collected clothes, blankets, and other essentials.

In Lincolnshire Stevenson High School, they had a Penny Wars competition among freshmen, sophomore, junior, and seniors classes who collected \$5,300 for the American Red Cross.

Vernon Hill High School raised \$3,500 for efforts with Best Buy matching their donation with \$7,000 more.

In Gurnee, Warren Township High School's student council sponsored two fundraisers netting \$400 for the Cooperative for Assistance and Relief Everywhere, CARE International.

Elementary school children in my district also made substantial contributions.

First through eighth graders at Holy Cross School in Deerfield raised \$2,000 for tsunami relief efforts in conjunction with Catholic Charities Week.

Ariana Michel and Gabrielle Feldman of South Park Elementary School in Deerfield raised \$2,000 themselves in just 2 days selling bracelets.

In Northbrook, Westmoor, Greenbriar and Meadowbrook elementary schools raised over \$2,000 for the Red Cross.

Northbrook Junior High School students raised \$5,000 for the tsunami efforts.

Students at Wescott School in Northbrook raised \$2,700 for UNICEF.

Countryside Montessori School in Northbrook raised \$1,200 for the American Red Cross through a coffee and bake sale.

Eighth grade classes at Field School in Northbrook raised \$1,000 for the American Red Cross.

Elm Place School in Highland Park collected school supplies to fill 166 bags sent to students in Phuket, Thailand.

Fifth graders at Lincoln School in Highland Park organized a bake sale netting \$900 for the relief effort.

Jefferson School in Hoffman Estates raised \$2,200 from a wristband sale for tsunami victims.

In Libertyville, Copeland, Highland, Adler, Butterfield and Rockland elementary schools raised \$1,500 for relief efforts.

Winkleman Elementary School in Glenview raised \$2,000 through a rummage sale that will go to Heifer International. In addition, third grade classes at the school raised \$780 for the American Red Cross and made 45 fleece blankets for orphanages.

Kindergarten, first, and second grade classes at Lyons School in Glenview collected \$3,200 for the American Red Cross.

Students at Hawthorn Schools in Vernon Hills organized a district-wide bracelet sale raising \$12,000 for tsunami victims.

Deerpath Middle School in Lake Forest raised over \$1,600 for the American Red Cross.

The Lake Forest Country Day School held a dance marathon raising \$6,000 for the tsunami relief.

In addition, students Ian and Lane Mankoff of Lake Forest raised \$15,000 for the relief effort through a hot chocolate fundraiser.

St. Theresa School in Palatine raised \$6,400 for tsunami victims.

Mr. Speaker, the schools and students I mentioned have taken up the challenge of service with honor while representing their communities with distinction. I am honored to represent these schools that have shown the desire to make a difference in the lives of those ravaged by the tsunami. They not only represent the best of our communities, but they are what makes our country strong. Thank you for the opportunity to recognize these outstanding student and schools of the 10th district of Illinois.

All of these efforts I think exemplify the best that is in the American spirit. And it is so heartening to see the youngest Americans giving the most, showing people across the world that they have never met what Americans can do.

#### HONORING ULYSSES BRADSHAW KINSEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to pay tribute to a recently deceased great American, Ulysses Bradshaw Kinsey.

As a boy, Mr. Kinsey grew up on a large farm where he shared responsibilities with his older siblings. Mr. Kinsey's values of fairness, compassion, and personal integrity were learned from his father and mother. He closely observed and admired his beloved father's fair treatment of people regardless of race and stature. He also admired his mother for her kindness and compassion towards others. This strong foundation would become the basis for Mr. Kinsey's personal and professional values.

While attending Florida A&M, he met and married his wife of 63 years. With their children they were loving and unflinching in their devotion. Mr. Kinsey believed that the best way to love his children was to love their mother. He encouraged independence of action and attitude while loyally supporting them and allowing them to develop in directions of their own choosing.

At the same time, he set well-defined limits that were firm and consistent. Mr. Kinsey's focus on the individual development and welfare of each child was transferred to his professional life in a long distinguished career as an educator. In 1941, he began his career as a social studies and history teacher at his high school alma mater. By 1943, he became assistant principal and also served as school treasurer, junior class sponsor, and athletic director.

In September of 1950, at the birth of his sixth child, Mr. Kinsey became principal of Palmview Elementary School, formerly an industrial high school. And by 1953, he had earned his masters degree in education and supervision from Florida A&M college. He also attended Lincoln University Law School in St. Louis, Missouri, during his summer vacations and completed his legal education.

Although Mr. Kinsey decided to become an educator partly because of the financial demands of a growing family, he never regretted that decision; and that decision was a fortunate one for the thousands of children who passed through Palmview's doors during Mr. Kinsey's long tenure as a principal.

As a leader, he focused on two rudiments of education, one, critical thinking through the development of reading and writing skills, and quantitative reasoning. His emphasis on these educational basics may explain why Palmview Elementary School, an institution located in an inner-city community with an 86 percent African American student population, was so hotly pursued by suburban parents during the early turbulent days of integration in the South.

Palmview, an educational oasis, was distinguished from other schools by its clean, safe environment, intensive extra-curricular activities in art and music and computers in the classrooms.

With a calm, careful demeanor, Mr. Kinsey led the way academically, not only for African American children but

also for all children in West Palm Beach County.

His impact on his community also influenced many others beyond the children who became part of the Palmview family. His work as a community organizer and leader began in the early 1940s. U.B., along with other African American educators, employed Thurgood Marshall and he was successful in bringing integration of the teachers and giving them the back pay they deserved.

His contributions are countless to education and he serves as a role model for others and leaves a very rich legacy.

#### POSITIVE IRAQ WAR EFFORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, so often when we hear of events in the Middle East the reports are negative, sometimes even the discussion on the floor reflects a great deal of negativism.

□ 1830

Recently, I led a delegation to Jordan and Iraq and later to Germany. Matter of fact, we just returned yesterday. And I thought I would report on what I saw there because so often soldiers say we really wish you would go back and tell the American people the war we are fighting and not the one that they see on television or in the newspapers.

So, on previous trips, I had been amazed at how positive the morale was. Everyplace that I went, soldiers seemed to be rather upbeat, pulled together, seemed to have a sense of mission.

As we flew into the Al Asad, which is a somewhat remote base about 90 miles west of Baghdad out in the desert, extreme cold, no vegetation, no trees, no grass, as we landed there in the dust and the sand, I thought, this is the place where we are going to see some people who are really pretty negative about what is going on, and I was really surprised.

There were 180 Nebraskans from my home State there. That is why I went there. They had not had a CODEL there for at least 9 months, maybe never there. And again I saw the same thing, a sense of accomplishment, a real sense of pride in what they were doing. I pressed them, and I talked to them, and I still got no negative comments and no major complaints.

We went on down to Baghdad, and we talked to General Petraeus, who is in charge of training the Iraqi soldiers, and General Casey, who is in charge of the overall command there. General Casey made the point that the infrastructure still needs improving. Obviously, the electricity is better, but it is still not working all the time. Sewage at times is not what it should be; and, at times, their oil pipelines are getting

blown up. But, again, there is general improvement, but they both said the January 30 elections were truly a watershed event. Since that time, there has been a definite qualitative shift in what is happening in Iraq.

I thought I would just point out some of the things that we were told and some of the things that we observed.

General Casey said, and General Petraeus as well, that by the end of the year Iraqi troops should be out in front in all concentrations in Iraq. They would have, in many cases, U.S. backup, but there are right now several areas of Iraq that are totally controlled, with no U.S. backup, by Iraqi forces. So the training of the Iraqis has been excellent.

The Iraqi intelligence is improving. Many Iraqis are now coming forward with information regarding insurgents that were not coming forward before. The attacks have been reduced, and the Iraqis are certainly much more confident of their future.

Apparently, many of the Sunnis are regretting not having participated in the elections, and at this point they are beginning to volunteer for the army, for the police, which was something that was unheard of a few months ago, and the Sunnis are pressing to get a place at the table in the new government.

There is no shortage of Iraqi recruits apparent at the present time. There are roughly 100 battalions of army Iraqis, 152,000 total have been trained and equipped, 85,000 police, 67,000 members of the army. The Iraqis have been provided with up-armored vehicles, body armor, about 130,000 sets. So they are well over halfway to their goal of 270,000 Iraqi soldiers trained.

Also, the Iraqis are performing much better, whether they are policemen or soldiers. The recent instigation or uprising in downtown Baghdad by al Sadr, where we have several thousands of his supporters demonstrating, it was well-orchestrated, but the thing that we did not hear was that whole situation was controlled by Iraqi police, with no U.S. backup, and so we find that they are much in control of the situation.

We also had a chance to talk to Mr. al Jafari, the prime minister. When we asked him what he wanted to say to the American people, he had just been installed as prime minister the day before we saw him, he said, the thing I would like to say is we owe a debt of gratitude to the United States and particularly for the loss of soldiers. He said, when you sent your soldiers over here and the sacrifices they made, it is something we can never forget, and that we will always be grateful for.

We asked him if he would have an inclusive government, if he would include the Kurds and Sunnis and Shiites. He said he would, and that remains to be seen, because he is linked with a very conservative Islamic Shiite party that has some ties to Iran. So I guess the proof will be in the pudding,

and we will see what he does. He was very cordial, nice and intelligent; and, of course, they have a President at the present time, a Kurd named Talabani.

We also were heartened by the progress women had made in Iraq, because at the present time every third name on the ballot last January 30 was a female name. So we will have about 80 representatives of the 275 member delegates to the constitutional convention.

So, all in all, Mr. Speaker, we think things are better. They are not perfect, but it is heartening to see the progress that has been made.

#### GUN LIABILITY LEGISLATION

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, yesterday I talked about no fly. In other words, terrorists in this country cannot get onto a plane, but they can certainly go into a gun store and be able to buy a gun. Today, I would like to talk about gun liability, which is going to be out on the floor in the next week or so.

The leadership of Congress is constantly preaching about personal responsibility: Individuals should accept the consequences of their actions. I agree with that. Unfortunately, this culture of responsibility does not extend to the gun industry and negligent gun sellers.

Both the Senate and the House have bills granting the gun industry unprecedented immunity from litigation and other legal actions, legal actions that many of us that have suffered from gun violence were able to take advantage of in the courts. Under this legislation, dealers and manufacturers of guns would receive immunity from any legal action.

Sellers and makers of nearly every other consumer product must face the consequences of their negligence and their misjudgments. Manufacturers and sellers of toy guns are more liable for their products than the makers and sellers of assault weapons and handguns.

The NRA has named this issue as their number one legislative priority this year. They said this will end frivolous lawsuits, but not a single suit against the gun industry has ever been deemed frivolous by a court of law.

This legislation is not about protecting an honest gun dealer who illegally sells a gun to someone who later commits a crime. This legislation protects cases of gross negligence which has led to the deaths of unsuspecting victims.

For example, I think the majority of us remember the incident here in the D.C. area. The owner of the Bull's Eye Shooter Supply Store in Washington State was sued because he could not account for 239 guns in his inventory.

One of these guns was the Bushmaster used in the D.C. sniper cases. The D.C. sniper killers were allowed to get their hands on a gun because of this store's negligence, but this legislation would get Bull's Eye Shooter Supply off the hook from any legal action. By the way, the victims were able to sue Bull's Eye and win a court judgment.

Fortunately, there was a lawsuit against Bull's Eye and Bushmaster, and part of the settlement was Bushmaster agreeing to work with its dealer to promote safer sales practices to prevent incidents of negligence. That is one of the tools of being allowed to sue, to make manufacturers, to make people responsible for their products.

This legislation would have required the immediate dismissal of the lawsuit against Bull's Eye.

The gun industry must be subject to the same laws that govern every other American business. Courthouse doors must remain open to those injured or who have lost loved ones because of the gun industry's negligence.

This bill would allow gun dealers to knowingly sell large quantity of guns to a single customer intending to traffic the guns to criminals without any legal repercussions.

Stripping away the threat of legal action would seriously jeopardize any opportunity to make guns safer. Without the threat of lawsuits, the gun industry will not have any incentives to incorporate gun locks, safety triggers and smart gun technology into their products. Had this law been in place 40 years ago, the auto industry certainly would not have made the cars we are driving any safer than what we are in today.

Instead of giving the gun industry never-before levels of protection, I support giving the gun industry Federal research and development money. This money would be used to develop reasonable safety measures for their products.

But Congress has not been responding to the threat of gun violence. Let me speak in a language the Congress leadership understands, dollars and cents.

The secret that most people do not understand is the gun violence in this country is costing millions and billions of dollars. People do not understand that the Centers for Disease Control at one time was able to study the economical impact of gun violence in this country. By an act here in Congress we are not allowed to do that anymore, so that data does not come out.

Years ago, independent studies have shown gun violence costs our health care system over \$100 billion every single year, \$100 billion. The \$100 billion a year cost includes premiums paid for private health insurance and tax dollars used to pay for Medicaid, Medicaid in our States that are having such a hard time, Medicaid that is going to be cut here in the House and the Senate. These costs often are not reimbursed and cost the States vital health care money.

Victims who survive suffer years of rehabilitation costing hundreds of thousands of dollars. My son was injured 11 years ago and is still going under physical therapy to be able to keep what he has.

The average cost of each firearm fatality, including medical care, police services and lost productivity is almost \$1 million a year. This Nation has to start looking at the gun violence. We can do this without the right of gun owners being taken away. Wake up, America.

#### TRADE IS THE WAVE OF THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, first, let me express my appreciation to my friend the gentleman from Tennessee (Mr. DUNCAN).

Mr. Speaker, I had the opportunity a couple of weeks ago to join with my colleagues, the gentleman from Florida (Mr. HASTINGS), the gentleman from Washington (Mr. HASTINGS), the gentleman from Georgia (Mr. GINGREY) and the gentleman from Florida (Mr. CRENSHAW) to meet with leaders in the European Union and the European Commission. One of the things that I found from meeting with them and from discussions that I had with our great ambassador to the European Union, Rockwell Schnabel, is that trade is obviously the wave of the future.

We have one of the most important trade relationships between the 25 member European Union and the United States of America on the face of the earth. In fact, trade between the EU and the United States is just short of \$1 trillion a year. It is \$966 billion, in fact, last year.

I think it is important for us to note that we have dealt with more than a few problems with the European Union. We have lots of great challenges, and I happen to believe that one of the best ways to deal with those challenges is for us to enhance that trade relationship.

We are in the midst of discussing the establishment of our first bilateral trade agreement in a long period of time as we in the not-too-distant future are going to be addressing the Central American Free Trade Agreement, which will include the Dominican Republic. As my colleagues know, Mr. Speaker, we have put together a wide range of bilateral agreements over the past several years.

I today met with the ambassador from the United Arab Emirates, one of our great allies in the global war on terror, and we hope very much we are going to be able to put together a free trade agreement with the United Arab Emirates.

I think it is also important for us to note that in dealing with the European

Union one of the best ways for us to address many of the disputes and challenges we have would be to embark upon a U.S.-EU free trade agreement. That is why today I have introduced H. Con. Res. 131, and I would encourage my colleagues to join in cosponsoring this very important measure. It is just a vehicle to begin the discussion, the prospects of negotiating for a U.S.-EU FTA.

Mr. Speaker, let us look at some of the disputes that we have right now with the European Union.

We all know that agriculture subsidies within the EU are many, many, many times greater than the agriculture subsidies that are provided for U.S. farmers. In fact, as we negotiated and worked on the farm bill, I voted against it at the end of the day, the farm bill, because I was concerned about the level of subsidization for U.S. agriculture.

But one of the things that some of the leaders who were supportive of that measure here in the House said was that if we can see a diminution of the level of subsidization that the European Union provides to its agriculture sector of the economy we will not have to have the agriculture subsidies that we have in the United States. So, obviously, embarking on negotiations for a U.S.-EU free trade agreement would allow us to really begin to boldly address the issue of agriculture subsidies that are so great within the European Union.

□ 1845

Another dispute that we have is this struggle between Airbus and Boeing. We know that within the European Union there are tremendous subsidies for Airbus, and I believe we should do everything that we can to diminish those so we can have, in fact, a level playing field as we address the issue in the aerospace industry.

And we have several other very important issues that need to be addressed in the area of privacy, in the area of e-commerce.

Mr. Speaker, I believe that this step which we have taken today to begin the discussion of a U.S.-EU free trade agreement will be very beneficial in enhancing the standard of living of the American people, the people in the European Union, and the people around the world.

#### AMERICA AT WAR

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, tomorrow a funeral will be held for Staff Sergeant Stephen Kennedy, the second soldier killed in Iraq who was a member of an Army National Guard unit headquartered in my hometown of Knoxville.

Both of these young men who were killed were from just outside my dis-

trict; but I was able to attend the funeral for the first, Sergeant Paul Thomason, as we were not in session in Congress at the time.

Both of these men leave wives and each had four small children and many other relatives. I admire and respect their service. There are many ways one can serve this country, but certainly one of the most honorable is by serving in our Nation's Armed Forces.

I am pro-military and believe we should have a strong national defense, but I emphasize the word national. It goes against every traditional conservative belief for the U.S. to try to be the policemen of the world and to place all of the burden and cost of enforcing U.N. resolutions on our military and our taxpayers.

It is no criticism of anyone in the military to say that the war in Iraq was a very unnecessary war. The more than 1,500 soldiers who have died there were simply doing their duty in the best way they could, probably hoping to come home as soon as they could, but certainly hoping to come home safely rather than in a body bag.

Now this past Saturday we saw headlines about anti-American demonstrations all over Iraq. One wire service story said more than 300,000 demonstrated in Baghdad.

Last year, our own government took a poll and found that 92 percent of Iraqis regarded us as occupiers rather than liberators. An earlier poll had a similar, but slightly lower, figure of 82 percent; and these were polls taken by us, or at least by the Coalition Provisional Authority, which is 95 percent U.S.

Obviously, the great majority of people in Iraq do not appreciate what we have done there and do not want us there. They do want our money, and that is the only reason some will say good things about us being there because we do still have several hundred thousand Iraqis on the U.S. payroll.

This is a nation that Newsweek said had a GDP of only \$65 billion the year before the war. By the end of this year, we will have spent \$300 billion in just 3 years in Iraq and Afghanistan, but mostly in Iraq. Iraq had a total military budget of just a little over two-tenths of 1 percent of our military budget in the year before we attacked. They were no threat to us whatsoever. Just a few weeks ago, a report came out saying our prewar intelligence was dead wrong. At that time, Richard Perle, one of the main architects of this war, appeared before the House Committee on Armed Services to say that everyone at that time thought there was a threat. This was not correct.

Just before the House voted to authorize the war in October 2002, I was asked to come to the White House for a briefing with Condoleezza Rice, George Tenet, and John McLaughlin. I asked at that time how much Hussein's military budget was in comparison to ours and was told the two-tenths of 1

percent figure I mentioned a few minutes ago. I asked was there any evidence of imminent threat. I said one man cannot conduct a war by himself, it would have to involve many others, was there any movement toward war. I was told there was none. George Tenet later confirmed there was no imminent threat in his speech at Georgetown University just after he resigned as head of the CIA.

There were just five other Members at that briefing, so we got to ask a lot of questions. I asked about former economic adviser Lawrence Lindsey's prediction that the war would cost 100 to \$200 billion. Ms. Rice said the war would not cost nearly as much. Now we know that Mr. Lindsey's prediction was far too low. Most of what we have spent and are spending in Iraq is pure foreign aid, megabillions to provide free health care and rebuild Iraqi roads, schools, water and power plants, airports and railroads, and provide law enforcement, among many other things.

At the White House briefing, I said most conservatives have always been against massive foreign aid and huge deficit spending. The war in Iraq has led to foreign aid and deficit spending on unprecedented scales.

There is nothing conservative about the war in Iraq, and many conservative columnists and activists have now realized this. Columnist Georgie Ann Geyer wrote in 2003, "Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by minorities in their name will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe."

The first obligation of the U.S. Congress should be to our own citizens, not the citizens of Iraq. In 1998 when Saddam Hussein was not even in the news, I voted to give \$100 million to the Iraqi opposition to help them begin the effort to remove Saddam Hussein. We should have let Iraqis fight this war instead of sending our kids over there to fight and die and be maimed, and the sooner we bring our troops home the better. I hope we have learned that we should never be anxious to go to war and should do so only when we are forced to do so and there is no other reasonable alternative.

#### SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCHENRY. Mr. Speaker, this evening I have requested an hour to speak about a pertinent issue for our Nation and a large issue for all generations in our country, and that is Social Security. As a Nation, we have to recognize that we have a problem that we

are facing with a system that we have had in place for 70 years. It is a problem that we must address, and it is an issue that we must ensure that we fix for future generations while at the same time maintaining our commitment to those that are at or near retirement age.

This is a large issue that we need to take on as a Congress. It is a large issue that we need to take on here in Washington, D.C. so that all Americans in all walks of life have the safety and security of their retirement savings.

So this evening many of my colleagues will join me to speak about the need for reform of Social Security and to maintain our commitment to those that are at or near retirement age while allowing younger workers a better opportunity and system to operate in.

To that end, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is in her second term here in Washington, D.C. representing her constituents of Florida very well. We both serve on two committees together, Committee on Government Reform as well as the Committee on Financial Services. I am proud to call her a colleague. She also shares another distinction: she goes home every weekend, just as I do. She does that in order to maintain her sanity, just as I do.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, another day in the Fifth Congressional District means that again my seniors received calls trying to frighten them about Social Security. This is the sixth set of calls that have gone into my district. The majority of the responses I receive is stop, stop, stop those calls. We trust you; we know you will do what is right.

As the American public knows, the long-term future of Social Security is problematic at best. We have all heard the facts that in the year 2017 the Social Security trust fund will begin paying out more than what it takes in and that if Congress does nothing, the program will face at least a 25 percent guaranteed cut in benefits in 2041. So if we do nothing, there will be future cuts. These are the facts, and they are indisputable.

What I am here to share with Members this evening is about the dangerous double talk from the opponents of any kind of reform of Social Security. I would like to read some interesting quotes from Washington politicians about Social Security. The first one is: "If you do not do anything, one of two things will happen: Either it will go broke and you won't ever get it. Or if we wait too long to fix it, the burden on society of taking care of our generation's Social Security obligations will lower your income and lower your ability to take care of your children."

Or how about the following: "This fiscal crisis in Social Security affects every generation."

Or how about this gem of a quote: "This is the time to straighten Social Security for the future. We can and must accomplish this critical goal for the American people."

Members may be asking themselves what right wing Member of Congress said that Social Security was in a crisis and which reformer said the program would go broke if we do nothing to fix the problem. Guess what, these are quotes from none other than former Democrat President Bill Clinton. Leaders of our country from both parties have known that Social Security needs reform. What bothers me today is when we finally have a President and a Congress that is brave enough to grab what is often termed the third rail of politics, partisan obstructionists are unwilling to even come to the table and debate reform honestly and with some substance.

I represent the congressional district with the most Social Security recipients, 47 percent of my voting age population receives Social Security, a quarter of a million people on Social Security. Politically the easiest thing for me to do is to throw up my hands and oppose reform. But instead of sticking my head in the sand like the Democrats are doing and refusing to admit we have a problem, even though their former President did, I am working to find a permanent solution.

If Democrats, the AARP, and the unaccountable 527 groups would be honest with themselves and with the American public, they would acknowledge the truth of President Clinton's statement that "this fiscal crisis in Social Security affects every generation."

Instead, what do we hear? We hear scare tactics from the liberal left about Republican efforts to privatize the system, to force our parents to eat dog food, and take away the only future our seniors have.

Mr. Speaker, the time has come for them to come to the table and do what President Clinton suggested. It is time to engage intellectually dishonest partisan politicians who refuse to debate the issue on its merits.

How, the American public should ask, can Congress expect to solve a substantive policy matter like Social Security when one side refuses to debate seriously.

If the Democrats want to have any relevance in the lives of our seniors, it clearly is time for them to come to the table. The discussion should begin with the simple question: Does Social Security face a problem?

I believe every American believes that Social Security does face a problem.

"Legislators whose answer to that problem is 'no' should probably go ahead and cosponsor a bipartisan bill to do nothing in the 109th Congress and go on to other issues." Who said that? Well, how about former Democrat Congressmen Tim Penny and Charlie Stenholm. Congressmen Penny and Stenholm know something needs to be

done. Why will they not bring their former colleagues to the table.

Let me tell a story about one of the town hall meetings I had in my district. Before I began a discussion with my constituents and listening to their suggestions, I held up a 10-page packet of questions and talking points that were sent out by MoveOn.org. I told my constituents that I was there to listen to their genuine concerns and questions, not to hear canned questions from a bussed in MoveOn.org member or to read off their cheat sheet. What do you know, about 2 minutes into the question and answer period, I got question number 3 right off the MoveOn.org cheat sheet. This is a perfect example of the left wing partisans stacking events at town hall meetings that are intended to benefit our constituents. I am sure other Members experienced the same phenomenon.

Getting back to the obstructionism of Washington politicians, here is another quote: "Because of the retirement of the baby boomers by the year 2013, the surpluses built up in Social Security start to dwindle down, and sometime around the year 2032, Social Security faces a serious crisis." Guess who said that? It was actually former Vice President Al Gore.

So the American public clearly can see that Washington Democrats are very good about talking out of both sides of their mouth if it furthers their partisan goals.

□ 1900

Al Gore talked a good game, but where is he today when it comes to presenting a plan or encouraging his members to guarantee the solvency of Social Security for future generations?

We have all read news accounts where President Clinton proposed that government directly invest a portion of Social Security money in the financial markets to capture a higher rate of return, rather than the dismal rate that it receives now.

Where, the public has to ask, were the liberal opposition groups back then? They supported a Democrat President who proposed this, but they oppose a Republican one. President Bush has proposed allowing workers to invest 4 percent of their payroll taxes into personal, safe and secure accounts. To many, this is a safer route than putting our Social Security taxes straight into the stock market like President Clinton wanted.

Where is the AARP with a plan of their own? We met with them in our office; and, quite honestly, all they said was, no, no, no. They did not have a plan of their own. All I have seen from them so far is a statement that personal accounts are unacceptable to their leadership.

But if you think about it, Social Security is already somewhat personalized. When you get home, I challenge people to check their yearly statement from the Social Security Administration. Your future benefits are there

calculated for you, not for the general public but for you. It already is somewhat personalized. Why do you not ask AARP why their leadership promotes stock and bond investing by selling mutual funds to its members or why they offer risky investment choices like a Latin American stock fund and even a junk bond fund? I personally find it very appalling the AARP sponsors trips to casinos where seniors literally gamble away their retirement.

Why do we not change the subject slightly and talk about the unions that are opposed to any change? They also said, no, sir, no way, to personal accounts. But when you ask union leaders where they invest their union pension funds, once again we hear double talk. They invest them, guess where, in the stock market. Why is it good enough for union leadership but not their members? I guess so much for risky schemes. The unions, AARP and others on the liberal left already have them.

Tonight I hope that I have made clear that there is one side and one side only that is honestly engaged in the debate over the future of Social Security. All the other side has thus far is fear, fear, and another hearty helping of fear. Quit trying to scare our seniors. The 527s are the ones making the calls as well as the opposition party. I want to speak to any senior listening tonight and I want to make it perfectly clear, I will not change your Social Security benefits in any way. The President has clearly said those who are 55 and above will be under the traditional plan as we know it.

So I challenge the opposition to join us, and I challenge the people who may be watching this evening, help us save Social Security for your children and grandchildren. We have stepped up to the plate and made it clear that we are willing to work toward a permanent solution that benefits all Americans.

Mr. Speaker, I hope that as we continue to debate this issue on the floor, back in our districts and around the kitchen table, we will all remember that it is our constituency we are working for and it is not partisan political groups.

Mr. MCHENRY. I certainly appreciate the sentiments of the gentlewoman from Florida. I am certain that her constituents appreciate her passion on this issue to ensure that Social Security does not harm those that are at or near retirement age. I appreciate her boldness on this issue and telling many of us things that we do not want to hear oftentimes. Her independence of mind, the independence of her agenda, it is certainly respected here in the halls of Congress. I am proud to call her a colleague.

Mr. Speaker, I am here to talk about Social Security, which in my mind is the most important domestic issue facing America today, not just for seniors but for those seniors' children and grandchildren. It is a vital program that we need to reform to ensure that

we can continue with this program for generations to come. I am so grateful to be part of a political party that is taking this problem on. We in the majority in the House, we in the majority in the Senate, along with our President, and I am so thankful we have a great President, are taking on this issue. Whether you like President Bush or not, he has guts and you have to respect that.

They called Social Security the third rail of American politics. If you touched it, you got fried. Well, things have changed. This is an issue that Americans are beginning to realize needs to be fixed in order to make sure it can be vibrant for future generations. And George Bush showed us all that we can and should tackle this issue, for our seniors and for our grandchildren. We in Congress are serious about taking this on. We are serious about a bipartisan approach, and we are serious about transforming this system into one that will thrive throughout the 21st century and beyond.

We want to transform it with three principles in mind, and these are important.

First, no reform that will pass this House will dare change the benefits of those that are at or near retirement age. For those that are currently drawing Social Security checks right now, none of the plans we debate will affect your Social Security check. But it will affect your children and grandchildren. So it is definitely important to you to consider those things.

Number two, no reform should raise taxes. You will hear a lot about raising taxes or raising the tax cap and say that that will fix the system. It will not. Tax hikes just postpone the problems we will face with Social Security, and tax hikes are not real reform.

The third issue is that we must make sure that these are voluntary personal accounts.

I will further talk about these issues as my time goes on, but I am proud at this point to recognize one of my favorite colleagues, my majority leader, our Republican leader in this U.S. House, a leader that not only shares our values but works and fights every day to see that we not only just talk about these values but we enact them into law, a man who has won close vote after close vote to even the ire and fire and fury of the minority but a man who has led our House in a great direction over the 10 years we have been in the majority, a man I am proud to call my Republican leader and will continue to call my Republican leader, Mr. TOM DELAY from Texas.

Mr. DELAY. I thank the gentleman from North Carolina for yielding to me, and I appreciate those words more than you know. I really appreciate you having this Special Order on an incredibly important issue that is important to all of us. You are fighting along with the gentleman from Texas (Mr. HENSARLING) the fight that makes sure

that we have retirement security for our seniors, for all of us, for our young today, providing retirement security for them.

Mr. Speaker, for all the rhetoric being thrown at the Social Security debate these days, four facts rise above the opinions.

Fact number one: The ratio of workers to retirees is shrinking. In 1945, there were 42 workers for every retiree. Today, there are three. And when my daughter retires, there will only be two.

Fact number two: The average rate of return for Social Security money is 1.6 percent. In other words, Americans could do better just putting their money into a simple savings account.

Fact number three: In just 3 years, the first of the baby boomers will start to retire, and in just over a decade, the Social Security system will start to pay out more money than it takes in.

Fact number four: Seniors are living longer and living more active lives than they were when Social Security was first created. Average life expectancy has increased 15 years since the 1930s, yet the system is still making 20th century assumptions.

These facts are not in dispute. Social Security is in trouble. The trouble is not as bad as it will be 10 years down the road if we do nothing, but it is serious trouble nonetheless. The question is not whether Social Security needs fixing. The question is when, how and by whom.

When? As soon as possible, Mr. Speaker. With each passing day, fewer and fewer workers are paying more and more benefits to support an ever-increasing population of retirees. The four facts I mentioned before all lead to a fifth fact, that every year that we wait to strengthen and improve Social Security, the problem gets \$600 billion bigger. If we wait until after the next election, that is \$1.2 trillion more we will eventually have to come up with. We have an opportunity to act this year, and we must seize it.

How? Permanently and comprehensively, Mr. Speaker. Every 15 years or so since its creation, Congress has gone in and treated a symptom of Social Security's more fundamental fiscal problems. But this time, thanks to the leadership of President Bush, we are committed to solving the problem itself, permanently. We need a solution to the fundamental challenges facing Americans' retirement security beyond just altering a formula here or there. We need a solution that goes beyond mere tax increases or benefit tweaks. We need to acknowledge 21st century realities and develop solutions around them.

One of those solutions, or, rather, a part of any such solution, is the establishment of personal retirement accounts within the Social Security system that will enable younger workers to build their own retirement nest eggs that they can pass on to their children and that the government can never



take away. Personal retirement accounts are an exciting, innovative and secure way for younger workers to save for their retirements and prepare for their own futures their own way.

Finally, Mr. Speaker, by whom? By us, Mr. Speaker. The fiscal crisis that now threatens the Social Security system has been looming since the baby boom exploded after the end of World War II.

Mr. Speaker, we are running out of time. Regrettable as it is that national Democrats have decided to put their heads in the sand and pretend that Social Security is perfectly sound, action still needs taking. Seniors are living longer, more independent lives; the boomers, the most affluent generation in history, are preparing for retirement; and younger workers who have their own families to raise and needs to meet are counting on us to protect Social Security not only for current and near retirees but for themselves and their children, too. We have a chance this year with the leadership and vision of President Bush to come together to strengthen and preserve Social Security.

Mr. Speaker, if our oaths of office mean anything, it is a chance that we must take. I thank the gentleman from North Carolina for bringing this Special Order, and I appreciate the commitment and the willingness to constantly talk about this issue so eventually the American people know, number one, there is a problem and, number two, there are solutions out there to fix that problem.

Mr. MCHENRY. I thank the majority leader for taking time out of his busy schedule in order to be a part of this special order. I certainly appreciate the passion he brings to his service in the House and his effectiveness as well.

Mr. Speaker, as I said, we have three issues that we need to make central to this reform of Social Security. First, no benefit cuts for those that are at or near retirement age. No changes. Second, no reforms should raise taxes. No reforms should raise taxes. And, number three, we must have voluntary personal retirement accounts that allow individual ownership. We want to move to a modern system that is tied to a better approach, with people having ownership and actually having control over their investments and having control over their retirement.

□ 1915

So the gentleman from the great State of Texas (Mr. HENSARLING), another one of my good colleagues, represents the Dallas area. He is in his second term here in the Congress; and from the get-go in 2003, when he first entered this place, he was recognized as a leader. And he is, indeed, a leader. He has led the fight for conservative budgets. He is a man who is passionate about representing his constituents in Texas well, including his wife and two kids; and he is a man who wants to talk about the family budget, not just

about our Federal budget, because politicians oftentimes come to Washington and want to represent government rather than absolutely representing the people that they were elected to represent, and that is the families, those families across America who have to live within their budget in order to make ends meet.

So with that, Mr. Speaker, I yield to the gentleman from Texas (Mr. HENSARLING), whom I am proud to call a leader and proud to call a friend.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding to me, and I certainly appreciate his leadership on this vital issue to the future of many Americans, not only seniors but younger Americans. So I think it is especially apt that the youngest Member of the House of Representatives would help bring this issue to the national consciousness tonight.

I am also especially honored that I could follow the esteemed majority leader to the floor. But for his leadership we would not be having this discussion now. And due to his leadership and his courage and his commitment to principle, this House is trying to make a stand, not just for the next election but for the next generation, because I think as more Americans become familiar with the challenges in Social Security, they will soon realize that if this House does not act and act now that Social Security as we know it will not be there for future generations. And, Mr. Speaker, we cannot look ourselves in the mirror and let that happen.

And I not only speak for myself tonight, but I probably speak for many other Members of this body in saying that Social Security is more than just a run-of-the-mill congressional debate. It is something that is very personal to me because, Mr. Speaker, I have two parents who are in their 70s. Social Security is part of their retirement. My father worked all of his life paying into the system, and I feel a moral obligation not just as a Member of Congress but as a son to make sure that my parents receive every single penny of Social Security benefits that they paid for.

So as we have this discussion about what can we do for future generations, every Member of this Congress I believe is committed to the proposition that for anybody who is receiving Social Security today, or will soon be receiving Social Security, nothing in the system is going to change. That is a matter of fairness. That is a matter of commitment that this Nation has made to its seniors. But not only do I feel a moral commitment to my parents; I have a moral commitment to two other people. And that happens to be my daughter, Claire, who is 3 years old; and my son, Travis, who is 18 months old. And again my wife, Melissa, and I realize that if this body does not do something that the retirement security that my parents enjoy will not be there for our children; and that is simply not fair, Mr. Speaker.

Let me say that Social Security has indeed been a very important program in the history of America, and it has helped alleviate poverty for a number of seniors. It has given a lot of seniors peace of mind, but it is not a system that is based upon savings and investment. It is a system that takes funds from current workers to transfer to current retirees. That is a system that works well if we have a whole lot of workers and only a few retirees. And when Social Security was first created back in the 1930s, we had over 40 workers paying into a system to benefit every one retiree. As recently as 1950, that figure was down to only 16 workers paying into a system to benefit every one retiree. Today we are down to only 3.3 workers paying into a system for every one retiree. And today's younger workers are quickly on a road to see only two, two workers paying into a system for every one retiree. That presents incredible financial challenges to our Social Security system.

And there is another challenge we have. There is another demographic trend that is great for seniors, but not so great for the Social Security system, and that is when Social Security was first created, the life span of an average American worker was 60 years of age. Due to the marvels of modern medicine and better technology, today the average life span of a worker has increased to 77. So again we have fewer and fewer workers supporting more and more retirees, and these retirees are living longer and longer. The system cannot keep pace.

So what has Congress done in the past? In many respects it has started to take the security out of Social Security. As time has gone by, taxes have increased. Many benefits have been cut. So as time goes by, we start to lose the security in Social Security. Social Security was a great deal for my grandparents, who were born in roughly 1900. When we look at what they put into the system versus what they took out, they received a 12 percent rate of return on their Social Security. That is great retirement security, Mr. Speaker. That is great retirement security.

My parents who were born, my dad in the late 1920s, my mother in the early 1930s, they are receiving roughly a 4 percent rate of return on their Social Security. Not good, but not bad.

My generation, represented by those born around 1960, we are going to receive only about a 2.5 percent rate of return. That is barely keeping pace with inflation, Mr. Speaker. And my children, represented by those who were born approximately in the year 2000, they could receive a negative rate of return. In other words, they may be putting more money into the system than they take out. That, Mr. Speaker, is when we lose the security that is in Social Security.

So all of these financial pressures, where is this leading us? Unfortunately, it is soon going to lead us to a sea of red ink.

There is some good news. The good news is as of today, Social Security is still running a surplus. But for those who can see the top of this chart here, just 3 years away, the surpluses in Social Security begin to decline. And in just 12 years, in the year 2017, we go from having surpluses to having deficits. In other words, in the year 2017, Social Security begins to go bankrupt. And as the years go by, the sea of red ink only gets larger and larger and larger and larger. And, Mr. Speaker, that is indeed a large sea of red ink.

How large? The trustees of the Social Security trust fund tell us that is a \$10.4 trillion sea of red ink that will simply drown the system, drown our children and grandchildren, if we do not act today.

Mr. Speaker, we often hear large numbers tossed around in the Nation's capital and \$10.4 trillion is a very large number. But let me try to relate that to a number that we can all understand. In other words, what the Social Security trustees are telling us is that if we wanted to balance the system and ensure that our children and grandchildren have the same retirement security that current retirees have, every man, woman, and child in America would have to write a check today to the Federal Government for over \$34,000. That is almost a \$150,000 check from a family of four to try to balance this system. Mr. Speaker, my guess is not many Americans would want to write out that \$34,000 check tonight. So we are going to look at some other options.

What are the options if we do not write out that check tonight to balance the system since we know we have fewer workers, more retirees, and they are living longer? If we do nothing, younger workers today who have just recently entered the workforce, those in their 20s, by the time they retire, they will have their Social Security benefits cut by a full third. How many seniors today could afford to have their Social Security benefits cut by a full third? So many seniors rely upon that Social Security. It is unconscionable. Is that the future we are going to leave our children and grandchildren?

Mr. MCHENRY. Mr. Speaker, reclaiming my time, how much is that per year that we delay reform? The numbers I have are that it is about \$600 billion a year.

Mr. HENSARLING. Mr. Speaker, indeed, I appreciate the gentleman for bringing up that point because not only do we have a huge dollar amount to solve the problem today, every year that we turn our backs on this as a Congress, as a Nation, that mountain gets \$600 billion higher each year of inaction. So, indeed, the cost of inaction is great.

Mr. MCHENRY. Absolutely. And reclaiming my time, Mr. Speaker, the numbers are about \$4,500 for every American in the workforce; \$9,000 for a married couple. These numbers are so staggering, and so I think it is a moral imperative for Congress to act.

And with that, Mr. Speaker, I further yield to the gentleman.

Mr. HENSARLING. Mr. Speaker, if for whatever reason we choose not to reduce benefits when we can use the least creative approach that has ever come out of Washington, D.C., and that is increase taxes, if we decide to try to solve this sea of red ink by raising taxes again, younger workers today will see their payroll taxes increase by 43 percent. I mean 43 percent, what a staggering tax increase on young families. I mean, what is that going to do for people who are trying to buy a home or start a family, and what is that going to do to job creation in America? It would be a crushing tax burden.

But at the end of the day, there are only three options if we are going to save Social Security as we know it for future generations. We are either looking at a massive tax increase, we are looking at a massive benefit cut, or we are looking at something else that the President is leading on, and that is having something called a personal retirement account, something that is going to have real assets in it that people own, that families can create a nest egg with, their own nest egg that will grow over time, and using something that Albert Einstein once called the greatest discovery he ever made in his life, and that was compound interest. And I believe that that is the option that we should begin to look at as a Nation, personal saving accounts.

And again I want to reiterate a couple of principles. No one is talking about changing Social Security. For those who are on Social Security tonight, those who are about to be on Social Security, we have a moral commitment to make sure that the system they worked on is there. But I hope, Mr. Speaker, that as time goes by and more Americans will listen to this debate, I do not know of any grandparent in America who wants to deny their grandchildren equal retirement security and equal retirement opportunity that they have enjoyed.

So I think it is critical that we turn to personal accounts so that younger workers on a voluntary basis, a total voluntary basis, will be able to put some money aside in an account that can grow over time. And I think what we are doing, Mr. Speaker, is we are adding the best elements of Social Security to the best elements of a company pension plan. We are going to keep the government backing. Nobody is ever going to lose all their retirement security. The government backing, the social safety net, will always be there. We are going to have guaranteed lifetime benefits. We are going to have progressive benefits for lower-income workers. But to that we are going to add worker ownership so that workers can actually own a part of their Social Security. They will be invested in the length and breadth of the American economy, not in their brother-in-law's real estate deal or in 100 shares of

Enron, but we are talking about pension-grade investments that over time have proven to be safe and yield a retirement security better than Social Security promises and cannot deliver.

Some tonight would say, That sounds great but it sounds a little risky to me. The real risk is leaving one's retirement security in Washington because already Washington has raided the Social Security trust fund over 59 times, and they have spent that money for \$75 million indoor rain forests, and they have spent it on \$800,000 outhouses that do not even work and studies about how college students decorate their dorms. They spend it on a lot of things besides retirement security. There have been over 20 tax increases. And we started out taking 1 out of \$50 for Social Security, now 1 out of 8. There have been multiple benefit cuts, declining rates of return, and no ownership rights.

□ 1930

Mr. Speaker, the real risk in Social Security is leaving America's seniors' retirement security in the hands of Washington. Because of that, I want to applaud my colleague from North Carolina, who has made a great impact as a freshman Member, I want to applaud him for his leadership and speaking out not only for the current generation of retirees but future generations of retirees, represented by my children.

Mr. MCHENRY. Mr. Speaker, reclaiming my time, I thank the gentleman. I certainly appreciate his passion on this issue and his devotion to our conservative philosophy and to our great Nation.

Mr. Speaker, if I may, I think with the earlier speakers you have heard there is a problem with Social Security. It is a problem we must tackle. I believe we have a moral obligation to step forward and to solve this problem before it results in a doubling or tripling of taxes or 30 percent cuts in benefits, these massive, devastating changes that can really hurt our Nation and hurt communities and hurt seniors. So we have a moral obligation to step forward and come up with a better plan.

I want to tell you, the longer we wait, the tougher it becomes to fix the problem and the more expensive it becomes. As I said earlier, \$600 billion a year we waste by not fixing the problem. That roughly equates to about \$4,500 per person, per working person.

Some would say, why do we not just tax more? And there is this concept of raising the Social Security tax cap. I want to tell you, it is not that simple. When you are talking about a \$600 billion a year payment we have to make in order to not solve the problem, it is hard to tax enough in order to meet that obligation. Beyond that, even if you take the cap off of the income subject to Social Security, that would only buy about 2 years, about 2 years, of further solvency in the system.

So it is not a fix. It is delaying the problem, delaying the pain. And because our Nation is changing, because

of the demographics of our Nation and the fact that we are going to have fewer people working per each retiree, we have to change the system in order to make it solvent for future generations.

With the baby boomers beginning to retire in 2008 and 2009, baby boomers were born between 1946 and 1964, so the first half of the baby boomers will begin to retire in 2008 and 2009. As they begin to retire, we are going to have to pay out more and more and more in the Social Security system. Certainly we have made that obligation as a great Nation, but I think we need to take on this problem of our change in population and the giant bubble that the baby boomers represent in terms of the population of our Nation and take on this issue to fix it.

So the problem is clear. Our demographics have changed in this Nation over the 70 years of the Social Security program, and Social Security is broken. It was designed in 1935 before television, before commercial aviation, before computers, and it needs to be redesigned. We do not drive 1935 automobiles anymore, do we? So what we need is a vehicle for retirement savings that is in keeping with our times.

That solution, Mr. Speaker, is personal accounts, personal retirement savings accounts. Personal accounts will eliminate the long-term liabilities of the Social Security system, that long-term liability that the gentleman from Texas (Mr. HENSARLING) spoke of, that \$11 trillion unfunded liability.

We as a Congress need to take on this challenge. But why is that? Why is it that Social Security retirement accounts, personal savings accounts, fix the system? It is because when workers put their own money into personal accounts for Social Security instead of the old system of Social Security, they lessen their own future pull on the system.

You see, by having your own accounts, just like IRAs, they accumulate money, they accumulate interest, and interest upon interest, interest upon interest upon interest. That is the power of investments, and that is what is going to allow personal retirement savings accounts to give a better rate of return than our current Social Security system.

Money into personal accounts means less of a pull on the system later. Remember, these accounts, as the President has spoken of, these personal retirement accounts, they are voluntary, so there will be no changes if you are at or near retirement age. For those 55 and older, no changes. For those that are younger, they will have the option, the opportunity to choose a personal retirement account for their own Social Security benefits. No effects on seniors currently. They are voluntary for younger workers. It is a wonderful opportunity for us to have this debate about personal ownership.

Beyond that, some say, how does this work? How do personal retirement accounts work?

Well, first of all, you cannot take the money to Las Vegas. You cannot go and bet your money. You cannot throw it in your brother-in-law's business. You would have to use widely diversified securities, savings accounts, certificates of deposit, bond funds, municipal bonds, bond and stock fund mix, these type of options, well-regulated, very diversified.

Some say, well, this seems sort of foreign to me. Currently, in America we have personal retirement accounts all across this Nation.

It brings about a story that occurred to me back in my district in Western North Carolina, Mr. Speaker, in the Tenth District of North Carolina. I went out and was out at church one day, at a new church visiting, and I met a fellow there named Dave Roland. Dave Roland works for the Foothills Area Mental Health Developmental Disabilities and Substance Abuse Authority located in Western North Carolina, in Burke and Caldwell Counties.

These folks that are out there serving those with mental health issues, they have personal accounts. Wait a second. How does that happen, some are saying. This seems very odd to me. But they have personal accounts.

I will not get into the arcane nature of tax law changes and everything else, but between 1935 and 1983 different entities had the ability to opt out of Social Security. They had the ability to provide their own type of retirement plans, many personal savings accounts like we are trying to implement. So some of these governmental entities still have them today.

Unfortunately, that option was closed in 1983. Since then, no organization can opt out of Social Security, no governmental entity can opt out of Social Security. But for the groups who opted out beforehand, before 1983, if they wanted to remain outside the system, they could, and many still remain outside the system.

Fully 4 percent of the American workforce is outside of the Social Security system. They have some type of personal savings accounts. That is over 5 million people. They work for organizations that have opted out over the preceding years.

Just so you know, there is a big myth out there, Congress has not opted out of the system. We are still in the Social Security system. I, along with my staff and all Members here in Congress and on Capitol Hill, pay into Social Security. So we have a good interest in making sure this program continues, because we do pay in.

Now, not all the opted-out plans are the same. They are very different. But I found out about the Foothills program because I was lucky enough to meet David Roland. He works at the Foothills Mental Health Authority, as I said, and is one of my constituents.

I am trying to find out about other programs like David has, so I ask those, Mr. Speaker, those that hear my voice or see my face to shoot me an e-

mail if you know of anyone who has an opted-out system, whether they work for a governmental entity, in any State in the Nation, not just my own constituents in North Carolina. So they can e-mail me at patrick.mchenry@mail.house.gov. That is patrick.mchenry@mail.house.gov. Please let me know. I want to know your story about a system where you have opted out. I want to know the kind of returns you have gotten, whether you like them or not.

But everyone I have talked to loves their personal retirement accounts, including David Roland. They are optional at Foothills Mental Health Authority. They are optional. An employee can make the choice to stay in the current Social Security system or have this system of personal retirement accounts.

At Foothills, they have the option of paying their portion of Social Security, their 6.2 percent of FICA tax, into a 403(b) annuity plan. It is just like an IRA, very similar to that.

Dave Roland told me this. He lives in Morganton, and he is one of the folks that opted out. He has been working at Foothills for 7 years, since March of 1998. He is 34 years old. He is responsible for all the yearly regulatory training at Foothills for all these mental health service providers.

He could not be happier with the system. He is not a slick Wall Street investor. No, he is a man that likes spending time with his children, is devoted to his church and works hard every day. He is a regular guy, just like you and me. I want to tell you what he says. I want to quote from him right now.

"I am a common worker. I have the benefit of a plan along the lines of what the President has proposed. In 7 years I have accumulated over \$50,000. I control the amount of risk that I want, and it is far better than what I could have gotten from the Social Security plan. I cannot imagine that I would have the same amount had I been in Social Security."

I am not going to tell you what Dave makes. In fact, I would not ask that question of him. But he is a man that is much like millions of Americans across this Nation. In 7 short years, he has a personal retirement account like we are proposing here in Congress, and in 7 short years he has accumulated over \$50,000 of retirement savings.

Now that is an amazing feat, if you consider the fact that he began investing in the late nineties and there were ups and downs in the stock market just in the last 7 years, and he has \$50,000 in savings. That is a staggering number in a short period of time.

But those are the type of benefits that we are talking about. He could buy an annuity when he retires. If he continues to get a similar rate of return, he could buy an annuity and get far more than what the Social Security system could give him. Benefits for Social Security are capped at about \$2,000 a month.

So a regular guy from my district has a personal retirement account. That is why I am so optimistic about what we are trying to do here in Congress, the type of reforms that we are trying to achieve, with personal ownership, a new retirement system that enables people personal ownership and allows them to pass on to their heirs if they do not spend all the money, to pass on to their heirs if they do not make the retirement age. These are wonderful opportunities for us to give to all Americans, all walks of life.

Mr. Speaker, do you know what? When Dave Roland makes his money and gets his check at the end of the week or the end of the month, it is his money. It is his money. Thankfully, he has a personal retirement account that he still controls and still owns, because it is his money.

That is what we are trying to do with personal retirement accounts, to give personal ownership, that level of inheritability to pass onto your heirs, that personal freedom, while at the same time having it well-regulated, operating very similar to the way Social Security does today, meaning the money is taken out of your check, you are obligated to be a part of the Social Security system, and that the investments will be well-regulated, the risks minimized.

What is fascinating, though, is there have been studies done on the stock market. There are some left-wing liberals that will tell you we should not invest in the stock market. I think we have gotten great rates of return in the stock market. We have gotten a better rate of return certainly than any government program can give.

Certainly I would like to be concerned about the rising tide in our Nation, to make sure that all Americans have that same ability to improve their life, to have personal ownership, personal savings and be a part of our marketplace, be a part of our marketplace.

I will tell you this: Some say the stock market is risky.

□ 1945

Over the last 200 years, the average rate of return in the stock market has been 7 percent. Now, that is over three times the best rate of return for Social Security. In any 20-year period in American history, the stock market has never gone down. Even during the Great Depression in the 1930s and the 1940s, the stock market did not go down. It had a positive return.

So we want to give all Americans, Mr. Speaker, that opportunity. We have a moral obligation as a Congress to take on this issue, to solve this problem, not just for a few years, not just push the problem back to another Congress another day; but we have a moral obligation to do what is right for our constituents and do what is right for all Americans, and allow them to have a better system to operate for their retirement savings, not just for

the next couple of years, but for generations to come. And with personal accounts, without raising taxes, and while maintaining our commitment to those who are at or near retirement age, we can do this as Americans.

We are not going to let those on the other side of the aisle just deny that there is a problem. That, in fact, is denying reality. And do not believe, Mr. Speaker, and do not allow the American people to believe that there is not a problem. This is an issue we have to take on as a Nation, and we are going to take it on. It is going to be the Republican Congress that takes this on. We are hopeful that some Democrats will come to the reality that there is a problem and that the right thing to do is to tackle it now instead of pushing it off to another day.

I appreciate this time to speak about this need for Social Security reform.

#### THE NEED FOR TAX REFORM

The SPEAKER pro tempore (Mr. GOHMERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. HOYER) is recognized for 60 minutes as the designee of the minority leader.

Mr. HOYER. Mr. Speaker, I rise to speak about tax reform and tax simplification, but one of our newest Members has had the opportunity to have the floor for the previous hour and talk about Social Security. I know that he is very worried about Social Security and, as a result, has been addressing that. But I am constrained to say that he talked about personal accounts with reference to Social Security. Of course, what he did not say is that Social Security has nothing to do with the solvency of Social Security. He talked about a moral responsibility. The President of the United States and his party indicated they were not going to spend any money of Social Security. In fact, in the last 4 years, they have spent and continue to spend every nickel of Social Security. I am sure my young friend will acknowledge that point at some point in time, but that is not the subject tonight of our Special Order.

Mr. Speaker, the one thing that millions of Americans will not be saying at the end of this week is, TGIF, thank goodness it is Friday. Friday is the day, of course, April 15, the annual deadline for filing Federal income tax returns, a duty of citizenship that provokes anxiety, confusion, and, yes, even anger in many taxpayers every year. Without question, the Internal Revenue Code has become a maze of complexity that confounds millions of Americans, including, I think, all of us who will speak. It treats many taxpayers unfairly; and it creates an opportunity, some would say an incentive, for those who would exploit its complexity to avoid compliance, thus placing an unfair share on others.

As Nina Olson, Mr. Speaker, said, the National Taxpayer Advocate stated in

December in her annual report to Congress: "The most serious problem facing taxpayers and the IRS alike is the complexity of the Internal Revenue Code. The only meaningful way to reduce these compliance burdens is to simplify the Tax Code enormously." So said Nina Olson, the National Taxpayer Advocate.

All of us, of course, bear some responsibility for the complexity of our Tax Code, Democrats and Republicans and every American who believes that the tax preferences that he or she utilizes are worthwhile. Considered individually, the tax preferences that clutter the code certainly can be rationalized and explained. Collectively, however, they are a jumble of confusion that have a corrosive effect on our democracy.

As Paul O'Neill, the former Secretary of the Treasury said, "One of the unseen consequences of the Tax Code's complexity is the sense it leaves taxpayers that the system is unfair, and that others pay less tax because of special advantages." Almost every American, I think, feels that, including those who take special advantage.

A few facts illustrate the scope of the problem, Mr. Speaker. In 1913, the Tax Code was a mere 500 pages in length. Today, the code and regulations total more than 60,000 pages. Four common forms, form 1040 and schedules A, B, and D, take an estimated 28 hours and 30 minutes to prepare. Think of that. They are relatively simple forms. When the IRS started tracking this information in 1988, the average paperwork burden was 17 hours and 7 minutes, about 11 hours less. Even the simplest form in the IRS inventory, a 1040 EZ, perhaps misnamed, now requires 3 hours and 43 minutes for the average taxpayer to prepare, up from 1 hour and 31 minutes in 1988.

Complexity costs more than \$100 billion. That cost is in accounting fees and the value of taxpayers' time to complete their returns. This is roughly equivalent to what we spend to run the Department of Education, Homeland Security, and State. Think of it: the cost of complexity for our taxpayers, \$100 billion more than we spend on the Department of Education, Homeland Security, and the Department of State. Not surprisingly, Mr. Speaker, more Americans than ever rely on tax professionals. I know I do. Nearly 60 percent rely on tax professionals today compared to 48 percent in 1990.

If the administrative burden does not convince you that reform is crucial, the crisis in noncompliance should. The IRS has estimated there is a \$311 billion annual tax gap due to underreporting, underpayment, and nonfiling. Think of that, \$311 billion. The bad news is that the budget deficits we are running up under this administration and the Republican leadership this coming year will be over \$400 billion. So even if we collected every nickel of that that was due and owing, we still would not solve our budget deficit, but it would help.

Now, leaders in the Republican Party have repeatedly proclaimed their commitment to tax reform and simplification. We have heard that. The party that wants to bring down taxes wants to simplify the code. Both of us can share that objective. However, let us look at the facts.

The gentleman from Texas (Mr. DELAY), the House majority leader, stated in April of 2001, "We are pushing forward with our campaign to reform the Tax Code. We are making it fairer, flatter, simpler, and less burdensome to the American people." That is what the gentleman from Texas (Mr. DELAY) said in 2001, that they were making the Tax Code fairer, flatter, simpler, and less burdensome. But the facts, unfortunately, and no one should glory in these facts, but, unfortunately, the facts say otherwise. Republican tax bills during the last 4 years have added, added more than 10,000 pages to the code and regulations. In fact, during the 108th Congress, the Republicans orchestrated nearly 900 changes in the Tax Code.

Now, those of us that have been here as long as the gentleman from Massachusetts (Mr. NEAL) and I will remember passing a tax reform package which was designed to protect the taxpayer. And a report of our colleague, our Republican colleague, the gentleman from Ohio (Mr. PORTMAN), who is now going to be our trade negotiator, that report said that one of the things that Congress had to stop doing if the IRS was going to be able to efficiently and effectively administer the Tax Code was to stop changing it every year. We have changed it every 4 years of this administration. And, of course, today on the floor of the House of Representatives, we changed it again. We made it more complex. In fact, many of us argued that what we did was really raise the taxes on really thousands of farmers and small business people as a result of the change we made.

Just one bill, the Republicans' so-called American Jobs Creation Act, resulted in 561 changes to the Tax Code, requiring more than 250 pages of tax law changes. Is it any wonder why it takes Americans so long to fill out their forms? The Joint Economic Committee notes how this one new law will require more than 10 percent of all small businesses to keep additional records, result in more disputes with the IRS, increase tax preparation costs, and require additional complex calculations.

Clearly, our tax system must be made simpler, fairer, and more efficient for the sake of every American, for every family.

Now, there are some people, frankly, who are wealthy and can afford unlimited accounting services to make sure that they take every advantage of the Tax Code, but the overwhelming majority of Americans are not in that position. Because of that, it is incumbent upon the Congress of the United States and each one of us individually to en-

sure that the Tax Code is fairer, simpler, and more efficient and that Americans can understand it and take much less time to fulfill their obligations to their country.

I think President Bush has taken an important first step in this effort by appointing the bipartisan Advisory Panel on Federal Tax Reform. I applaud him for doing that. It is chaired by former Senators Connie Mack, who served in this body as well; and John Breaux, who also served in the House of Representatives.

The panel, in my opinion, must present options for reforming the Internal Revenue Code. The requirement to do so is prior to July 31. I am hopeful that Congress can act on this important issue during the 109th Congress. I believe there is an increasing momentum, Mr. Speaker, among taxpayers for real reform; and Democrats intend to join and lead this fight. Democrats want to see reform to the Tax Code. Democrats are committed to a fairer, simpler, more efficient Tax Code.

For example, we need to diffuse the middle-class time bomb, the alternative minimum tax. Now, the alternative minimum tax was adopted for people who were making hundreds of millions of dollars, corporations making hundreds of millions of dollars, maybe billions, but were paying no taxes at all. So what the Congress said some decade and a half ago, was that, look, everybody in our country needs to contribute to its defense and its support. Therefore, we will have an alternative minimum tax.

That was never intended to adversely impact middle-income earners, not in the million dollar category, but far less than that. It was not intended for them. But Americans are now finding, two-earner families doing reasonably well, but just making their college tuition payments for their child, paying for their cars so that they can get to and from work, and paying for their mortgage payment because maybe they had to get a new house and housing prices have gone up; they are not having an easy time, and what they are finding now is they are getting caught in the web.

We should have fixed this 4 years ago. We should have fixed it 3 years ago. We should have fixed it 2 years ago. We should have fixed it last year. We should fix it this year. We are not going to. The President has not proposed fixing it, and the Republicans do not want to fix it either. Why? Because it is a secret stealth tax increase on middle-income and upper-middle income Americans.

□ 2000

That is why we do not fix it, so that the majority party can posture that they are cutting taxes while at the same time raising taxes. The AMT, or the Alternative Minimum Tax, will hit an estimated three million taxpayers this year, requiring them to pay \$6,000

or more on average than they would otherwise owe, and which, when this was adopted, was not intended to have any effect on them. And the number of taxpayers subject to this tax will explode.

Listen to this, my friends. All of our constituents ought to know this. It will go from the three million who are adversely affected today to 35 million taxpayers.

Now let us say, just for the sake of argument, that there are only 15 million families there. So 50 million families, in other words, 35 million taxpayers who have a wife and children, so maybe as many as 50 or 60 million people, 35 million taxpayers will be included in the provisions of the Alternative Minimum Tax by 2010.

Furthermore, Mr. Speaker, because the AMT was not indexed for inflation, that is the way we could have protected the middle-income folks, we did not do it. We should be doing it now. We should have done it in 2001, we should have done it in 2002, we should have done it in 2003, we should have done it in 2004, and we should have done it this year. We are not doing it. It ensnares more and more middle-income taxpayers because it was not indexed.

We also, Mr. Speaker, need to take a hard look at moving toward a return-free income tax system, a system that would say to most taxpayers, you do not have to get involved in paperwork. Here is the deal. You can file very easily because the tax system will be much simpler and much fairer.

Think how much better Americans would feel, not that they are going to feel great about paying their taxes. None of us feel great about paying our taxes. But all of us understand, as a democracy, that it is necessary if we are going to have a national defense and if we are going to have other services in this country.

We need to simplify, Mr. Speaker, as well tax rules for small businesses. No reason small businesses ought to be under a mountain of rules and regulations and tax requirements. We ought to stop individuals and corporations, however, from gaming the system, which means that small businesses and individuals have to pay more than their fair share. We need to consider overhauling the corporate income tax and focus on eliminating tax breaks that actually encourage American companies to move jobs overseas.

The gentleman from Massachusetts (Mr. NEAL) has been very involved in this entire issue, and perhaps he will discuss it when I yield to him. Overseas, rather than giving tax incentives to corporations and businesses, to create and keep jobs here in America for Americans.

The American people are acutely aware of the unnecessary complexity and dire need for real tax reform in America today. The Republican party has not led on this issue. And the President can call a commission together, but for 5 years they have taken

no action. The American people need and deserve a tax system that is simpler, fairer and efficient.

I would like to yield now to some of my colleagues who are here. The gentleman from Georgia (Mr. SCOTT) has been here for a long time waiting to speak, and I thank him for being here. I yield to the gentleman from Georgia.

Mr. SCOTT of Georgia. Mr. Speaker, I want to just, first of all, thank our distinguished Minority Whip, the gentleman from Maryland (Mr. HOYER) for the distinguished leadership that he has been providing on this issue.

Mr. Speaker, I rise today to discuss what is one of the what I call tragic burdens, one of the greatest tragic burdens on the American family, and this is the costly, complex Tax Code. This Friday, April 15, is tax day for millions of Americans who will spend countless hours this week trying to comply with our unbelievably complex tax laws.

At the outset, I want to make something very clear, Mr. Speaker, to the American people tonight. Let me make it clear that it is Democrats who you will see tonight who are taking the leadership. It will be Democrats on this floor of the Congress tonight who are taking the leadership to make our tax system fairer, less complicated, and simpler.

Now we all know that over the last 4 years this government has been getting bigger under the Republicans. The deficits have soared under the Republicans. Social Security is coming under direct attack and attempting to be dismantled and privatized by the Republicans. And our tax system has gotten more complicated, more unfair and complex under the Republicans.

There has been a growing unfairness in the Tax Code and an astronomically exploding national debt, trillions upon trillions of dollars, and growing each year.

But, Mr. Speaker, it is Democrats who are here tonight providing the leadership for tax fairness, for tax relief, for tax simplification and, most importantly, for reducing taxes on working American families.

Americans are double-taxed by the time and expense that it takes to do their taxes. For example, individuals, businesses, tax-exempt public and private entities spend nearly 6 billion hours complying with the Tax Code.

Nearly 60 percent of taxpayers currently use a tax professional to prepare their taxes, compared to only 40 percent in 1990. A typical taxpayer knows that a competent tax professional does not work for free, so it is costing taxpayers an estimated \$100 billion each year in accounting fees and the value of their time to complete their tax returns.

Now, Mr. Speaker, I am reading a very interesting book by Thomas Friedman, and it is called "The World is Flat". And in this book, he talks about a phenomenal situation that takes place largely because of the paperwork and the complexity of our tax returns and preparing them.

He points out very clearly in a chapter called "While I Was Sleeping" that over in India a burgeoning industry is taking place, preparing Americans' taxes, outsourcing jobs. In 2001, it was 50,000; 2002, it was 100,000; 2003, it was 400,000; and 2005 it is projected to be over one million. Not just jobs, but our precious preparation of our taxes being outsourced.

I am here to tell you that our failure to simplify our Tax Code is causing a major transformation of our accounting profession. Taxpayers are losing money due to the complexities of the system.

The Government Accountability Office estimates that Americans overpay their taxes by an estimated \$1 billion a year because they fail to claim deductions. About a quarter of Americans who are eligible for the Earned Income Tax Credit fail to claim it due to complexities.

Mr. Speaker, this is terrible. It is a tragedy, and we must make our Tax Code easier for the American people, make it easier for them to figure it out.

As an entrepreneur who started a successful small business, I was not surprised to learn that the IRS estimates that the average self-employed taxpayer has the greatest compliance burden of almost 60 hours to prepare his or her taxes. It is no wonder that small business owners overpaid their taxes by \$18 billion in 2000 and 2001, according to the GAO.

This is unacceptable, Mr. Speaker. We do not need to take this any further. Considering these statistics, is it any wonder why 70 percent of Americans recently polled believed their Federal taxes are too complicated?

In that same Associated Press poll, about half of the respondents would prefer to visit the dentist than prepare their taxes.

Another tax problem that Americans will discover is, as our distinguished leader, the gentleman from Maryland (Mr. HOYER), pointed out, that the Alternative Minimum Tax which will have to be paid by nearly 3 million taxpayers this year, that number will explode to 30 million by 2010 according to the Congressional Budget Office. By 2010, the AMT will ensnare one-third of all households and 97 percent of families with two children and incomes between 75,000 and 100,000, according to the Brookings Institute.

Now, in January our distinguished President announced the establishment of a bipartisan panel to provide alternatives to simplify the Tax Code, which I certainly join with my leader in commending him. This advisory panel will submit to the Secretary of the Treasury a report of its recommendations by July 31, 2005; and I hope that the advisory panel will consider tax fairness as well as tax simplification. And let us all work together. The current Tax Code is riddled with special advantages for various subgroups of business people.

Mr. Speaker, I serve on the Financial Services Committee, and I am deeply worried about the finances of our country. A simplified Tax Code would reduce tax cheaters and cut down on compliance expenses for all taxpayers. I believe that it is time for Congress to clean up this Tax Code and provide some relief to families and small businesses.

Yes, we Democrats are taking the leadership on this as you see tonight. But this is bipartisan. The American people are looking for Democrats and Republicans to join together and make our tax preparation simple, easy to understand. The American people deserve this, and the American people are going to get it with us working together to bring tax relief, to bring tax simplification of the Tax Code to the American people.

Mr. HOYER. I thank the gentleman from Georgia for his remarks and for his restating the commitment the Democrats have to ensuring that Americans get a fairer, simpler and more efficient tax system that treats them fairly and treats everybody else fairly as well.

Now it is my great pleasure, Mr. Speaker, to introduce or to yield to one of the senior members of the House of Representatives, the distinguished gentleman from Massachusetts, mayor of his town before he came here, and as a member of the Ways and Means Committee has been in the leadership of opposing complicating the Tax Code, opposing making it less fair and opposing tax legislation which sent jobs overseas. He has been a true giant in the leadership on this effort, and I am pleased to join with him in this effort that we join tonight. I yield to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I want to congratulate the gentleman from Maryland (Mr. HOYER) and thank the other members of the team that have assembled tonight for the purpose of discussing what we can do to simplify the Tax Code for the American people.

Mr. Speaker, we argue frequently in this institution about tax cuts. In fact, this afternoon we came up with an estate tax cut that only further complicates the tax system. And indeed we ought to be called the House of Lords here for what we did today. We have created a system of peerage now. You can pass on money in this instance, vast sums, without any qualms. We can take care of Paris Hilton, we can take care of the idle rich, but we cannot address the issue in a forthright manner about Social Security or we cannot make sure that those Humvees arrive in time for our young men and women who serve us with great honor every day in Iraq and Afghanistan or to make sure that they have the necessary equipment. And as they return home we are asking now for a copay on veterans services at Veterans hospitals.

But what is striking about this, in a town that often talks about tax cuts,

we could quite easily, Republicans and Democrats working together, do something that everybody in America desires, and that is a simplification of our Tax Code.

People really have to believe in their tax system. They have to believe that there is an equitable distribution of the burden, but there is also an important investment based upon the potential achievements that come from us paying our taxes.

Now, I notice that the first two speakers were very bipartisan in their commentary about how we might get to the starting line. But let me be just a little bit more discerning, offer a little bit more scrutiny of what has happened here during the last 10 years.

Now, if you recall, when the Republicans came to majority status here, they promised, and the former chairman of the Ways and Means Committee very clearly stated, and I quote, they were going to pull the Tax Code up by its roots.

□ 2015

They were going to rip the Tax Code up by its roots. We were all going to a long funeral for the Tax Code. And they were going to give us a flat tax. They were going to give us a consumption tax. We are no closer to a flat tax or a consumption tax than we were when they started. In fact, the reality is that they have not backed up their words with action.

The Tax Code today is more complicated than ever, and the very people on the Republican side who denounce the Tax Code's complexity are the ones that put together what they now call a convoluted monstrosity. They put it into effect.

The law that Republicans criticize today was part of their 2001 tax bill that a Republican-controlled White House sent to a Republican-controlled House and then to a Republican-controlled Senate. So the Republicans controlled the conference committee. They negotiated the final version of the bill. They provided almost all of the votes for the plan, and now there is even a Republican administration that administers the Internal Revenue Service, and we are no closer to simplification.

That is one of the reasons that we voted against the tax bill on our side, but let me tell you what the 2001 law did. It added 214 million hours to the paperwork burden for United States taxpayers in 2001 alone. It led to an explosive growth of the Tax Code. The Tax Code has expanded from 500 pages in 1913 to 45,662 pages in 2001 to 60,044 pages today.

Think of it: 60,000 pages and almost 15 percent, one quarter of those 60,000 pages have come into effect during these last 4 years. Think about that: 15,000 new pages of tax laws from the same people who rail against tax complexity. It is breathtaking in its audacity.

But do we have time in this institution to address the Bermuda tax issue?

No, we do not. I remind the American people tonight that for the cost of \$27,000 you can open a post office box on the island of Bermuda, declare that you are a corporate citizen of Bermuda while those 146,000 soldiers are in Iraq and say that your citizenship belongs to Bermuda, thereby escaping the responsibility and obligations that we have in America to those young men and women in uniform.

Well, they have controlled this Congress for 10 years, 10 years; they said they were going to do something about the Tax Code.

Well, let us talk about alternative minimum tax. They have done nothing about alternative minimum tax. It is creeping up across the board on the American people. I have asked for hearings time and again on alternative minimum tax.

Let me announce this to the American people tonight one of the best things about this debate, as a Democrat from Massachusetts, I have proposed eliminating, getting rid of the alternative minimum tax. I want to congratulate the Republicans for one thing. Seldom have I ever been part of any legislation where I got more pats on the back on their side or words of encouragement and fewer votes. Fewer votes. They will encourage me, say keep up the battle. Stay with it. Stay after it. And then I will say, let us have an up-or-down vote on getting rid of AMT, alternative minimum tax.

If you are watching tonight and you take advantage of the Hope tax credit or the child tax credit, you bump into a whole new category of taxation. When that individual finds out what is about to happen on Friday or if they picked up their taxes during the last few days or weeks, they are going to be pretty upset with the notion of alternative minimum tax.

I filed a very good simplification bill here. It is almost revenue neutral, and it will achieve all the ends and strip pages from the Tax Code. But again, I want to hearken back to what I spoke of when I started.

We should stop arguing about tax cuts in this town. After all, we have had five tax cuts while we are fighting two wars. But we could do something that all members of the American family are in favor of and that is simplifying the Tax Code, changing the Tax Code, getting rid of the complexity instead of what has happened during these 10 years from a party that promised to take the Tax Code and tear it out by its roots. We now have a Tax Code that has roughly 15,000 more pages. It is wild in its complexity with what has happened.

I want to thank the gentleman from Maryland (Mr. HOYER) and the gentleman from Georgia (Mr. SCOTT) and the others that will participate in this discussion. But hearken back to that notion I have raised, and that is let us simplify the Tax Code for the American people as Democrats have promised to do.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. NEAL). That is our pledge. The Democrats are going to work. We are going to work hard, and we will work with the President if the President wants to work, and we will work with the other side of the aisle to make this a fair, simpler, more efficient tax system. We owe that to the American public. We want to be the party of reforming our tax system so that Americans will say, I understand it, nobody likes to pay taxes but I am paying a fair share.

I thank the gentleman from Massachusetts (Mr. NEAL). It is now my honor to yield to my good friend, the distinguished gentlewoman from Cleveland, Ohio (Mrs. JONES), who has done such an extraordinary job during her tenure here and is now a member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, I want to thank the gentleman from Maryland (Mr. HOYER) for his support for the years I have here in Congress and his support for my appointment to the Committee on Ways and Means. I am happy to be on the committee that is going to have the opportunity to review the Tax Code, and I want to thank him for his leadership on this issue.

Public distrust, that is the main reason why we urgently need fundamental tax reform. More and more Americans distrust the current tax system because they perceive it as unfair. Are they wrong? No.

Lower- and middle-income Americans bear a disproportionate tax burden. Small businesses bear a great compliance burden. That is unfair.

Does fairness in our tax system matter? Of course it does. It matters because tax collection depends on voluntary compliance. And in a democracy like ours, people contribute private resources to provide the public goods and services we deem appropriate as a community, including helping those not able to fend for themselves.

In America, paying taxes embodies a civic relationship of mutual responsibility, and people's obligation to pay them is as legitimate as any other public duty. So I am glad that we are discussing comprehensive tax reform, an issue that will only become more important for us in this Congress.

Let me offer five short points to consider as we discuss the important issue. First, fundamental tax reform is a necessity. The current system is complicated, inefficient, and unfair. Its unpopularity is warranted, and that is a problem because that breeds distrust.

The Tax Code must be simplified in order to eliminate the disproportionate amount of time and money currently spent on compliance. For example, the average taxpayer with a self-employed status has the greatest compliance burden in terms of tax preparation, 59 hours. In 2002 taxpayers spent more than \$90 billion in compliance. I know somebody has already talked about that, so I will move on.

Second, simplification can occur only with fundamental tax reform. This is clear after decades of incrementalism. We know that tax reform cannot be done in a piecemeal fashion. The current system is flawed at its roots. Hard-working, middle-income, and lower-income people bear the largest burden in our current tax system.

Third, fundamental tax reform must focus on the tax base. Our tax base is derived from total income. However, this is complicated by the bewildering array of adjustments, deductions, credits, omissions, and mismeasurements. This undermines the fairness of our tax system. Therefore, fundamental tax reform must focus on the issue of tax base in order to achieve equity, efficiency, simplicity, and accountability.

Fourth, the Tax Code must encourage entrepreneurship. Small businesses provide our economy's foundation. They need a tax system that frees resources for investment and ensures affordable capital. We must support small business and American entrepreneurship which make up the backbone of our economy.

Fifth, fundamental tax reform is possible. Tax reform is not an easy task. However, the American public demands it. They see our tax system is unfair, and they are right. As it was in the mid-eighties, the time is right to begin taking serious steps towards achieving fundamental tax reform. We must listen to our constituents and be up to the task of implementing a fair tax system.

I want to close with this: this is a letter from one of my constituents. And I will not read it all, but I will read a portion of it.

It is dated March 22, 2005. It is from 2484 Stratford Road, Cleveland Heights, Ohio, 44118, to Congresswoman TUBBS JONES:

"Dear STEPHANIE, When we worked in the Cuyahoga County Prosecutor's Office, we prosecuted matters deemed criminal by statute. For how it will potentially decimate our district and others, the alternative minimum tax ought to be considered criminal.

"The AMT increased my Federal tax liability by over \$13,000. This increase did not result so much from my income level but rather was directly related to the fact that Cleveland Heights has among the highest property tax rates in the State and the State of Ohio is among the States with the highest income tax rates.

"The AMT was enacted in response to individuals earning over \$200,000 a year who reduced or eliminated tax liabilities through various tax shelters. Because the AMT has not been adjusted for inflation and tax cuts, households with children earning over \$50,000 will be subject to the AMT. Those residing in high-tax districts like Cleveland Heights will also be hit the hardest.

"I have no fancy tax shelters. Ninety percent of those subject to AMT, including me, face this tax solely on ac-

count of paying high income property taxes and having children. Without immediate changes to the AMT and our outrageous high property taxes, people will continue to move out of Cleveland Heights with consequential loss of an income tax base, decline in property values, and a loss of diversity.

"In my neighborhood alone there are over 20 homes for sale, the majority leaving on account of the taxes. The AMT exacerbates the problem as a significant proportion of these high taxes can no longer be deducted to reduce taxable income. This double whammy will affect Cleveland Heights residents as well as those in other inner ring suburbs proportionally more so than others."

He suggests two changes. AMT should not consider any income earned or taxed in one city or State of residence or any real estate tax on one's principal residence in order to increase taxable income.

Secondly, he suggested that school funding cannot rely so heavily on real estate taxes.

It is signed by Tony Mastroianni. He is a young doctor and young lawyer. And I just wanted to submit it for the RECORD so he knew I presented this information for my colleagues for review with regard to AMT.

I thank the gentleman for the opportunity to speak.

CLEVELAND HTS., OH, MARCH 22, 2005.  
HON. STEPHANIE TUBBS JONES,  
Longworth House Office Building,  
Washington, DC.

DEAR STEPHANIE: When we worked in the Cuyahoga County Prosecutor's Office we prosecuted matters deemed criminal by statute. For how it will potentially decimate our district and others, the alternative minimum tax (AMT) ought to be considered criminal.

The AMT increased my federal tax liability by over \$13,000. This increase did not result so much from any income level but rather was directly related to the fact that Cleveland Heights has among the highest property tax rates in the state and the state of Ohio is among the states with the highest income tax rates.

The AMT was enacted in response to individuals earning over \$200,000/yr who reduced/eliminated tax liability through various tax shelters. Because the AMT has not been adjusted for inflation and tax cuts, households with children earning over \$50,000 will be subject to the AMT. Those residing in high tax districts like Cleveland Heights will be hit the hardest.

I have no fancy tax shelters, 90% of those subject to AMT, including me, face this tax solely on account of paying high income/property taxes and having children.

Without immediate changes to the AMT (and outrageously high property taxes), people will continue to move out of Cleveland Heights with consequential loss of an income tax base, decline in property values and loss of diversity. In my neighborhood alone, there are over 20 homes for sale; the majority leaving on account of the taxes. The AMT exacerbates the problem as a significant proportion of these high taxes can no longer be deducted to reduce taxable income. This 'double whammy' will affect Cleveland Heights residents as well as those in other inner ring suburbs proportionately more so than others.

Allow me to propose two suggestions: AMT should not consider any income earned/taxed

in one's city/state of residence or any real estate tax on one's principal residence in order to increase taxable income. Itemized deductions are already limited based on income level; there is no need to further penalize individuals for buying a single residence and having children: we need kids (and to feed them) to grow up and pay into social security! Go after real tax shelters; School funding cannot rely so heavily on real estate taxes. Real estate taxes in Cleveland Heights are among the highest in the state and Cleveland Heights is fourth in spending per pupil in Cuyahoga County. Ed Kelley and other inner ring suburb mayors have been meeting to determine ways of equitable school funding so that people do not flee Cleveland Heights on account of obscene property taxes. As mentioned above, not being able to deduct such taxes is adding insult to injury.

The AMT is a national problem that clearly exacerbates an ongoing problem in Cleveland Heights. I hope that you and your colleagues can remedy this soon. If you need additional information or would just like to listen to me complain, I may be reached at work (440) 743-4749, or at home (216) 932-4748.

Thank you.

Sincerely,

TONY MASTROIANNI.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her comments. I think her reading of the letter is an example of all that we are hearing from Americans: Congressman, this Tax Code I cannot understand. Congressman, this Tax Code costs me a lot of money and a lot of time to comply. And I want to comply and I want to be honest and help my country but, golly day, I am having trouble figuring it out. Will you please make it fair? Will you please make it simpler and just make it work better for me, for my family, and for the country.

Mr. Speaker, I yield to someone who is working very hard to do just that for his constituents and all Americans, the newest member of the Committee on Ways and Means, the gentleman from Illinois (Mr. EMANUEL), who does an extraordinary job.

Mr. EMANUEL. Mr. Speaker, I would like to pick up on a point the gentleman made of what we hear from our constituents. That is this notion that people are just trying to be honest and just trying to do something that is honest.

The fact is we all know the sense of frustration that we are hearing from our constituents is that the Tax Code has created a culture that has rewarded cheating and penalizes those who play by the rules.

□ 2030

That is what we have today, and that is a problem, that is a frustration that we hear from people.

When we were on Easter recess, there was a report by the IRS showing that there goes about \$350 billion of unreported income, which would wipe the deficit off by three-quarters of this country. People who are hiding income, playing games, not reporting it, forcing the middle class to pay an ever-increasing amount of money, they are basically cheating. We know it is going on. They think the \$350 billion is a low number.



It is getting worse as the tax code has gotten worse, and yet we are putting middle class families further behind on health care bills, college costs, trying to figure out how to save for their retirement and a tax burden and a tax code that does not do justice to what they are trying to do as parents and as a family.

So we have a code that rewards cheating. It promotes a culture of cheating and a code that on the other end is the middle class family. It penalizes those who play by the rules and try to do the right thing by their family.

Everybody has got something that they have proposed so I do not want to be outdone. I have also done something to that effect, but I not only have done it by legislation, I do it in my office.

One little story. I run a tax assistance program clinic in my congressional office every Saturday. We have the big four accounting firms, the accountants from the banks. It is called a tax assistance program. It is run as an entity. We house it in my congressional office. We advertise about it.

Every Saturday from 8:30 to 11:30, we actually help people fill out their taxes. We do it for two-and-a-half to three months a year. This last year we did about 1,132 taxes for individuals with families, returning on average \$1,900 in earned income tax credit deductions, tax deductions they would not have gotten because nobody else would have filled it out. I say, if you can fill out the EITC tax code, you can go to graduate school. You do not need to do it. It is the most complicated form. By comparison, I want you to know, if you are a corporation and try to get the export-import loan agreement, it is 12 questions, but for the earned income tax credit, it is over 200 questions. We fill it out.

We also do college assistance, and we have back in my district about \$10 million in different deductions and credits that exist in the code they would not have gotten, and after three months in a row every Saturday 45 different families show up. We turn on average away 15 families because we cannot help do them, and we make them first in line the next Saturday. But we do that every Saturday for three months. We did our last one last Saturday. We run these clinics so we know firsthand how these go besides the one I do for myself.

Second, I have introduced legislation called the simplified family credit. It takes the earned income tax credit, the per child deduction and the dependent care and takes 200 pages of the code and 2,000 additional pages down to 12 questions. It collapses all of those deductions that exist for families earning somewhere between \$15,000 to \$50,000 down to 12 questions. It would save a huge amount of money that ends up because of waste and abuse in the code because it is too complicated.

There are estimates of about \$6 billion dollars, and if you simplified it,

not only would you save money, but for people who have chosen to work and do right by their children, you have a tax code that was on their side, not on the side of folks who are trying to get lawyers and accountants to try to figure out how to basically game the system.

Any reform should understand that people are in the moderate income, \$50,000 and less, should have a code that is simple for them to use.

So I have introduced what I call the simplified family credit that takes those three credits, the earned income tax credit, the per child and the dependent care and puts it down to 12 questions.

We run the clinic in my office to help families fill out their taxes and the tax forms, the 1040, and get them the type of deductions that we are talking about.

I want to stress, every one of us, we have people hit by the AMT. People come around and it is going to be Friday, they are going to be all in downtown Chicago and the neighborhoods and around the State and around the country. Their heads will be shaking because they know this code was not designed with them or their families in mind. It was designed for those who can afford lawyers, accountants and lobbyists. Those are the people that are benefiting by this code, and this code does injustice to people who are trying to do right by their families.

We need a code that not only understands the trials and the challenges of the middle class family but finally reflects what they are trying to do for their kids rather than what the lobbyists are trying to do for their interests. That is what we have to do when we reform this code is put it back on the working class and middle class families who are trying to do right for their families.

I want to thank the gentleman for this time and organizing this, especially as Friday looms in people's eyes and they have to face literally around the kitchen table all those bills. It is not meant for nine hours of unpleasant time trying to fill that out. We can do better.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and I congratulate him for those clinics. I think that is a wonderful idea. I think very frankly we ought to have similar clinics and cooperate with a number of the people in our communities who could help people, particularly the EITC is difficult to understand for Members, much less those who it is designed for, to make sure people at the very poor end of the income scale have enough resources to support their kids. That is what it is all about, and this is what we think ought to be done.

So I thank the gentleman. I also want to thank him for the simplification of all the child tax credits that are now available because if we can get that just one item, as you pointed out, down from those 200-plus questions down to 10 or 12 questions, we are going

to save a lot of money, a lot of time and a lot of mistakes, a lot of mistakes. The EITC is complicated, but there are a lot of mistakes made, not by people who want to commit fraud but who simply make mistakes.

I am glad that we are joined now by, in my view, one of the real stars of the new class in the Congress. She has been sent to us from south Florida, an area where I used to live, and she is doing an extraordinary job. I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) very much for yielding and thank him so much for giving us this opportunity to talk to the American people about what is essentially a startling contrast between our vision and our view on what tax reform should entail and what the majority's vision is.

I think that is really what we should ask people to take a look at, because the perception that is out there in America is not what it should be, and really what I would like to spend some time talking about is how the majority talks about making taxes simpler. As we can see, they have plenty of rhetoric that they have thrown around over the years as far back as 1997 and even for the years before that. Yet their actions do not match the rhetoric.

That is really what it boils down to, and I am a person that is all about action. That is what our caucus is about, and I think you have to walk the walk when you talk the talk, and that is not happening with this administration. It is not happening with the leadership of this body.

It is critical that the American people understand the consequences of the years, and I know that they do. Every working family sitting around their kitchen table understands the consequence of the complexities and the carving up of the tax code by the Republican majority here. I mean, that is what they have continued to do, in spite of the fact that they go out in America and talk about how complex it is. Well, it is time that something gets done about it. The time for talking needs to stop.

Their tax policies clearly favor some citizens over others. They pick and choose. They pick winners and loser among businesses and industries, and they do it all under the guise and cloak of tax reform.

One of the most important consequences is that the Federal Government and State and local governments, they do not have adequate resources to pay for the day-to-day services that our constituents need. That is a direct consequence of not having tax reform. There are real needs that are not being addressed because our local governments cannot provide the services because of the tax system as it is currently constructed. That squeeze is being felt all across this country, and particularly in the towns and cities in

my district and in the districts of many of our colleagues.

That is because the debt burden faced by the Federal Government is going to dramatically worsen in the future if the administration's tax cuts are made permanent. If the Bush tax cuts are made permanent, this problem is only going to get worse.

The Government Accountability Office projects that interest on the national debt would nearly equal all of the Federal taxes, including income and payroll taxes that we generate in 2040, not now but the taxes that we generate in 2040, if the recent tax cuts are made permanent.

Current and proposed debt and the rising level of interest that we pay on that debt, which is soon to average about \$300 billion a year, which is more than we spend on Medicaid to help make people understand what that means, we weaken Social Security and threaten benefits for today's seniors, for disabled workers and their survivors, much of which affects women disproportionately which I want to address in a moment.

The amount merely required to pay interest on the national debt ultimately will be almost twice the amount that is paid out to all Americans in Social Security benefits. That is unbelievable. The interest on the national debt will be more than twice what we pay out in Social Security benefits.

Unlike interest on the national debt, Social Security has its own dedicated taxes, and the President fails to acknowledge that these costs crowd out resources for other priorities that affect people of all ages, people over 55 and younger people as well, in health care, in education and in homeland security. I want to take a minute and just talk about the impact on women of the Bush administration's policy decisions as it relates to tax cuts and the lack of tax reform.

There are programs serving women and families that are really bearing the burden of deficit reduction. The President's budget now in front of us slashes funding for countless domestic programs.

The administration itself in child care calculates 300,000 additional children could lose assistance by 2009 from the continued freeze in funding. Between 2003 and 2004, 200,000 children have lost child care help.

In Medicaid, the administration would cut \$7.6 billion over 5 years, and the House even more.

Education and training: Investment in high school vocational education programs that can help train women and girls for higher paying, nontraditional jobs is totally eliminated.

Supplemental nutrition for women, infants and children: The cut of \$658 million could mean 660,000 fewer pregnant women, infants and children receiving WIC assistance in 2010.

I want to boil this down for another few seconds. Millionaires' average tax

cut in 2004 was \$123,592, which is more than five times the annual income of a typical single mother with children, whose median income is \$22,637. That is what their policy translates into for regular, everyday people.

More than one-quarter of single-parent families, who are overwhelmingly headed by women, get nothing from the 2001 and 2003 tax cuts.

These tax cuts, the bottom line, and the budget simply makes the wrong choices for women, for their families and for all Americans.

Mr. Speaker, I want to again thank the gentleman from Maryland (Mr. HOYER) so much for this opportunity for us to help the American people understand that it is Democrats that are committed both in action, deed and rhetoric, and our actions will match our words when it comes to tax reform.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman and she left me a beautiful segue into the closing of our action matching our words. That is what ought to happen, and when that does not happen, people get pretty cynical. Let me refer to some words.

In 1996, Newt Gingrich was the Speaker of this House and he said, "The current system is indefensible," referring to the tax code. He was right. "It is riddled with special interest tax breaks. Today's tax code is so complex that many Americans despair that only someone with an advanced degree in rocket science could figure it out. They are wrong. Even a certified genius such as Albert Einstein needed help in figuring out this Form 1040." In 1996, 8 years ago, the Republicans were in charge of this House, and Mr. Gingrich was our Speaker.

A year later, Mr. Gingrich said this as the Speaker of the House, "So we want to move towards a simpler tax code that takes less time to fill out, that is easier for the American people," 1997.

In the last 7 years, the Speaker's party, the Republican party, has made the tax code 25 percent more complicated than it was in 1997, moving in exactly the opposite direction.

In 2001, 4 years later, 2001, President Bush said, Americans want our tax code to be reasonable and simple and fair. He was absolutely right. That is what I want. That is what every American wants. These are goals that have shaped my plan. What plan? No plan, no plan here, no plan in the Committee on Ways and Means, no plan from the White House.

□ 2045

And then in 2004, fast forward 3 years, just last year: "The administration has made tax simplification a priority, and we look forward to working with Congress to achieve it. A simpler code is something we owe honest taxpayers, and the worst thing of all for the tax cheat."

Mr. Speaker, we agree with the President, but what did we do today? This very day, we made the Tax Code more

complicated, not to mention costing many small farmers and small businessmen more money than they otherwise would have paid with existing policy.

Mr. Speaker, my Republican friends, my Democratic friends, on behalf of the Democratic Party, I pledge that we are going to fight to reform a system that is complicated, that is unfair, and that is inefficient so that Americans will say, as painful as April 15 may be, at least it was easier to fill out, at least I think it was fair, and at least I think it will be handled in an efficient way.

Democrats are committed to reforming this Tax Code so it will be simpler, fairer, and more efficient.

#### 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 Mrs. MCCARTHY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.  
Ms. WOOLSEY, for 5 minutes, today.  
Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.  
Mr. MCDERMOTT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.  
Mrs. MCCARTHY, for 5 minutes, today.  
Ms. CORRINE BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mrs. BIGGERT) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.  
Mr. KIRK, for 5 minutes, today.  
Mr. OSBORNE, for 5 minutes, today.  
Mr. DREIER, for 5 minutes, April 14.  
Mr. DUNCAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

#### ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Thursday, April 14, 2005, 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:

1521. A letter from the Secretary, Department of Agriculture, transmitting the annual assessment of the cattle and hog industries, pursuant to Public Law 106-472 7 U.S.C. 181, et seq; to the Committee on Agriculture.

1522. A letter from the Acting Administrator, AMS, Department of Agriculture,

transmitting the Department's final rule — Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV05-916-1 IFR] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1523. A letter from the Director, Regulatory Review Group, FSA, Department of Agriculture, transmitting the Department's final rule — Tobacco Transition Assessments (RIN: 0560-AH31) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1524. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 04-04, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1525. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Selected Acquisition Reports (SARs) for the quarter ending December 31, 2003, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

1526. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting two reports, the first is the "Department of Defense (DoD) Chemical and Biological Defense Program (CBDP) Annual Report to Congress," and the "Department of Defense (DoD) Chemical and Biological Defense Program (CBDP) Performance Plan for Fiscal Years 2004-2006," pursuant to 50 U.S.C. 1523; to the Committee on Armed Services.

1527. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of funds that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, pursuant to 10 U.S.C. 2466(d)(1); to the Committee on Armed Services.

1528. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the National Guard Challenge Program Annual Report for Fiscal Year 2004, pursuant to 32 U.S.C. 509(k); to the Committee on Armed Services.

1529. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Resolving Tax Problems [DFARS Case 2003-D032] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1530. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Tax Procedures for Overseas Contracts [DFARS Case 2003-D031] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1531. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 2004 Annual Report, pursuant to 12 U.S.C. 3305; to the Committee on Financial Services.

1532. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the Status and Condition of Head Start Facilities used by the American Indian and Alaska Native Programs, as required by Section 650(b) of the Head Start Act; to the Committee on Education and the Workforce.

1533. A letter from the Deputy Assistant Secretary for Export Administration, De-

partment of Commerce, transmitting the Department's final rule — Amendments Affecting the Country Scope of the End-User/End-Use Controls in Section 744.4 of the Export Administration Regulations (EAR) [Docket No. 040615184-4184-01] (RIN: 0694-AD15) received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1534. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian that have participated in the International Military Education and Training (IMET) program, and have been identified in the Country Reports on Human Rights Practices for 2004 as violating internationally recognized human rights subsequent to such training, pursuant to Section 549 of the Foreign Assistance Act, as amended; to the Committee on International Relations.

1535. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on "Overseas Surplus Property," pursuant to Public Law 105-277, section 2215; to the Committee on International Relations.

1536. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report mandated in the Participation of Taiwan in the World Health Organization Act, 2004 (Pub. L. 108-235), Section 1(c); to the Committee on International Relations.

1537. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1538. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1539. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1540. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting the Program Performance Report for FY 2004, as required by the Government Performance and Results Act; to the Committee on Government Reform.

1541. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 2005 through March 31, 2005 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a Public Law 88-454; (H. Doc. No. 109-19); to the Committee on House Administration and ordered to be printed.

1542. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 032205C] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1543. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8 Airplanes [Docket No. FAA-2004-19541; Directorate Identifier 2004-NM-129-AD; Amendment 39-14013; AD 2005-06-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1544. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes [Docket No. FAA-05-20399; Directorate Identifier 2005-CE-02-AD; Amendment 39-13988; AD 2005-04-16] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1545. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. FAA-2004-19446; Directorate Identifier 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1546. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. TFE731-2 and -3 Series Turbofan Engines [Docket No. FAA-2004-18019; Directorate Identifier 2003-NE-65-AD; Amendment 39-14004; AD 2005-05-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1547. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200B, 747-200C, 747-200F, 747-300, and 747SR Series Airplanes Equipped With General Electric (GE) CF6-45 or -50 Series Engines [Docket No. FAA-2004-19945; Directorate Identifier 2004-NM-22-AD; Amendment 39-14017; AD 2005-06-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1548. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-256-AD; Amendment 39-13968; AD 2005-03-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1549. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80C2 Turbofan Engines; Correction [Docket No. 2003-NE-43-AD; Amendment 39-13835; AD 2004-22-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1550. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-622R and A300 F4-622R Airplanes [Docket No. FAA-2004-19542; Directorate Identifier 2003-NM-282-AD; Amendment 39-14005; AD 2005-05-16] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1551. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A231 Series Airplanes [Docket No. FAA-2004-19264; Directorate Identifier 2004-NM-90-AD; Amendment 39-14014; AD 2005-06-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1552. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100B SUD, -200B, -200C, -200F, and -300 Series Airplanes [Docket No. FAA-2005-20431; Directorate Identifier 2005-NM-040-AD; Amendment 39-13995; AD 2005-04-51] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1553. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600); and A310 Series Airplanes [Docket No. FAA-2004-19451; Directorate Identifier 2002-NM-138-AD; Amendment 39-13983; AD 2005-04-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1554. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000EX and 900EX Series Airplanes [Docket No. FAA-2005-20425; Directorate Identifier 2005-NM-014; AD; Amendment 39-13987; AD 2005-04-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1555. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. FAA-2004-19202; Directorate Identifier 2004-NM-95-AD; Amendment 39-13989; AD 2005-05-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1556. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. FAA-2004-19768; Directorate Identifier 2004-NM-184-AD; Amendment 39-13990; AD 2005-05-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1557. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. FAA-2004-18678; Directorate Identifier 2001-NM-312-AD; Amendment 39-13991; AD 2005-05-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1558. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerospaciale Model ATR 42-200, -300, and -320 Series Airplanes [Docket No. FAA-2004-19562; Directorate Identifier 2004-NM-73-AD; Amendment 39-13992; AD 2005-05-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1559. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Models RB211 Trent 768-60, Trent 772-60, and Trent 772B-60 Turbofan Engines [Docket No. 2003-NE-28-AD; Amendment 39-13994; AD 2005-05-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1560. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT9D-59A, -70A, -7Q, and -7Q3 Turbofan Engines [Docket No. 2001-NE-27-AD; Amendment 39-14002; AD 2005-05-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1561. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eagle Aircraft (Malaysia) Sdn. Bhd. Model Eagle 150B Airplanes [Docket No. FAA-2004-19897; Directorate Identifier 2004-CE-45-AD; Amendment 39-14003; AD 2005-05-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1562. 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-135 and -145 Series Airplanes [Docket No. 2003-NM-34-AD; Amendment 39-13998; AD 2005-05-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1563. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, 757-200CB, and 757-200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines [Docket No. FAA-2005-20424; Directorate Identifier 2004-NM-268-AD; Amendment 39-13986; AD 2005-04-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1564. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, -100B, -100B SUD, -200B, -200C, -200F, and -300 Series Airplanes; and Model 747SP and 747SR Series Airplanes; Equipped with Pratt and Whitney Model JT 9D-3 or -7 (except -70) Series Engines [Docket No. FAA-2004-19812; Directorate Identifier 2003-NM-197-AD; Amendment 39-13996; AD 2005-05-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1565. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Airplanes [Docket No. FAA-2004-19530; Directorate Identifier 2002-NM-274-AD; Amendment 39-14008; AD 2005-05-19] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1566. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. FAA-2004-19751; Directorate Identifier 2002-NM-59-AD; Amendment 39-14001; AD 2005-05-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1567. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600); and Model A310 Series Airplanes; Equipped with Certain Honeywell Inertial Reference Units (IRU)

[Docket No. FAA-2004-19537; Directorate Identifier 2004-NM-145-AD; Amendment 39-13993; AD 2005-05-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1568. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D, E2 and E4 Airspace; Columbus Lawson AAF, GA, and Class E5 Airspace; Columbus, GA; Correction [Docket No. FAA-2003-16596; Airspace Docket No. 03-ASO-20] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1569. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Cape Town Treaty Implementation [Docket No. FAA-2004-19944; Amendment Nos. 47-27 and 49-10] (RIN: 2120-AI48) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1570. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, KS [Docket No. FAA-2004-19579; Airspace Docket No. 04-ACE-69] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1571. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Re-designation of Mountainous Areas in Alaska [Docket No. FAA-2004-19532; Amendment No. 95-340] (RIN: 2120-AI44) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1572. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Ames, IA [Docket No. FAA-2004-19580; Airspace Docket No. 04-ACE-70] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1573. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Carrying Candidates in Elections [Docket No. FAA-2005-20168] (RIN: 2120-AI12) received March 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1574. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of E2 Airspace; and Modification of Class E5 Airspace; Ankeny, IA [Docket No. FAA-2004-19581; Airspace Docket No. 04-ACE-71] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1575. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Mifflintown, PA [Docket No. FAA-2004-19458; Airspace Docket No. 04-AEA-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1576. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mount Comfort, IN [Docket No. FAA-2004-18948; Airspace Docket No. 04-AGL-18] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1577. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Presque Isle, ME [Docket No. FAA-2005-20388; Airspace Docket No. 05-AEA-04] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1578. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Angoon, AK [Docket No. FAA-2004-19414; Airspace Docket No. 04-AAL-16] received March 30, 2005; to the Committee on Transportation and Infrastructure.

1579. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Hibbing, MN [Docket No. FAA-2004-18534; Airspace Docket No. 04-AGL-17] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1580. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Coffeyville, KS. [Docket No. FAA-2004-19583; Airspace Docket No. 04-ACE-73] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1581. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mountain Grove, MO [Docket No. FAA-2005-20064; Airspace Docket No. 05-ACE-6] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1582. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO. [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] (RIN No. 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1583. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Newton, IA [Docket No. FAA-2004-19582; Airspace Docket No. 04-ACE-72], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1584. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO. [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1585. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mena, AR [Docket No. FAA-2004-19405; Airspace Docket No. 2004-ASW-14] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1586. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Beluga AK [Docket No. FAA-2004-19696; Airspace Docket No. 04-AAL-24] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1587. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Neosho, MO. [Docket No. FAA-2005-20063; Airspace Docket No. 05-ACE-5] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1588. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Macon, MO. [Docket No. FAA-2005-20066; Airspace Docket No. 05-ACE-8] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1589. A letter from the Secretary, Department of Health and Human Services, transmitting a letter containing the initial estimate for the applicable percentage increase in Medicare's hospital inpatient prospective payment system (IPPS) rates for Federal fiscal year (FY) 2006; to the Committee on Ways and Means.

1590. A letter from the Commissioner, Social Security Administration, transmitting a report providing notice that the Commissioner has completed the five year nationwide demonstration project to extend fee withholding and direct payment of authorized fees under Titles II and XVI of the Social Security Act to certain non-attorney representatives providing that they meet certain prerequisites, pursuant to Public Law 108—206, section 303; to the Committee on Ways and Means.

1591. A letter from the Secretary, Department of Veterans Affairs, transmitting the biennial report describing the administration of the Montgomery GI Bill education assistance program, covering the program through September 30, 2004, pursuant to 38 U.S.C. 3036; jointly to the Committees on Armed Services and Veterans' Affairs.

1592. A letter from the Secretary, Department of State, transmitting the 2004 Annual Report on United Nations voting practices, pursuant to 22 U.S.C. 2414a; jointly to the Committees on International Relations and Appropriations.

1593. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report required by the Foreign Intelligence Surveillance Act of 1978, pursuant to 50 U.S.C. 1807; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 902. A bill to improve circulation of the \$1 coin, create a new bullion coin, and for other purposes; with amendments (Rept. 109-39). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 458. A bill to prevent the sale of abusive insurance and investment products to military personnel (Rept. 109-40). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 525. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees (Rept. 109-41). Referred to the

Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 798. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; with an amendment (Rept. 109-42). Referred to the Committee on the Whole House on the State of the Union.

Mr. GINGREY: Committee on Rules. House Resolution 211. Resolution providing for consideration of the bill (S. 256) to amend title II of the United States Code, and for other purposes (Rept. 109-43). 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. TANCREDO (for himself, Mr. JONES of North Carolina, Mr. COBLE, and Mr. GARRETT of New Jersey):

H.R. 1587. A bill to match willing United States workers with employers, to increase and fairly apportion H-2B visas, and to ensure that H-2B visas serve their intended purpose; to the Committee on the Judiciary.

By Mr. EVANS (for himself, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. MICHAUD, Ms. HERSETH, Mr. STRICKLAND, Ms. BERKLEY, Mr. UDALL of New Mexico, Mrs. DAVIS of California, Mr. BISHOP of Georgia, Mr. DEFAZIO, Mr. LYNCH, Ms. DELAURO, Mr. GRJALVA, Mr. VAN HOLLEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, Mr. SCHIFF, Mr. ABERCROMBIE, Mr. CASE, Mr. MCGOVERN, Mr. PETERSON of Minnesota, Mrs. JONES of Ohio, Ms. BORDALLO, Mr. ORTIZ, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mr. BAIRD, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. KUCINICH, Mr. EMANUEL, and Mr. TAYLOR of Mississippi):

H.R. 1588. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. OWENS, Mr. KILDEE, Mr. WEXLER, Ms. MILLENDER-MCDONALD, Mr. KUCINICH, Ms. CARSON, Mr. FILNER, Mr. SANDERS, Mr. WAXMAN, Mr. LANTOS, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Mr. RUSH, Ms. PELOSI, Mrs. MCCARTHY, Ms. CORRINE BROWN of Florida, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. PAYNE, Mrs. JONES of Ohio, Mr. MCDERMOTT, Ms. MATSUI, Ms. WASSERMAN SCHULTZ, Ms. SOLIS, Mrs. CAPPAS, Ms. KILPATRICK of Michigan, Mr. BROWN of Ohio, Mr. JACKSON of Illinois, Ms. LEE, Ms. LINDA T. SANCHEZ of California, Mrs. DAVIS of California, Mr. GRJALVA, Ms. MCKINNEY, Mr. FARR, Mr. LEWIS of Georgia, Ms. WATSON, and Mr. DOGGETT):

H.R. 1589. A bill to improve the lives of working families by providing family and medical need assistance, child care assistance, in-school and afterschool assistance, family care assistance, and encouraging the

establishment of family-friendly workplaces; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself and Mr. FLAKE):

H.R. 1590. A bill to amend the Food Security Act of 1985 to restore integrity to, and strengthen payment limitation rules for, commodity payments and benefits; to the Committee on Agriculture.

By Mr. GILCHREST (for himself, Mr. EHLERS, Mr. KIRK, Mr. BLUMENAUER, and Mr. DEFAZIO):

H.R. 1591. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. GILCHREST, Mr. BOEHLERT, Mr. BAIRD, Mr. HONDA, and Mr. KIRK):

H.R. 1592. A bill to establish marine and freshwater research, development, and demonstration programs to support efforts to prevent, control, and eradicate invasive species, as well as to educate citizens and stakeholders and restore ecosystems; to the Committee on Science, and in addition to the Committees on Transportation and Infrastructure, Resources, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 1593. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Resources.

By Mr. BRADLEY of New Hampshire (for himself and Mr. MEEHAN):

H.R. 1594. A bill to require the Secretary of Defense to develop and implement a plan to provide chiropractic health care services and benefits as part of the TRICARE program; to the Committee on Armed Services.

By Ms. BORDALLO (for herself, Mr.

RAHALL, Mr. SENSENBRENNER, Mr. CONYERS, Mr. YOUNG of Alaska, Mr. SKELTON, Mr. BURTON of Indiana, Mr. LANTOS, Mr. JONES of North Carolina, Mr. HONDA, Mr. FLAKE, Mr. EVANS, Mr. RENZI, Ms. VELZQUEZ, Mr. FORTUÑO, Mr. GEORGE MILLER of California, Mr. ISSA, Mr. SCOTT of Virginia, Mr. MILLER of Florida, Ms. ZOE LOFGREN of California, Mr. FALCOMA, Ms. ABERCROMBIE, Mr. WILSON of South Carolina, Mr. ORTIZ, Mr. ALEXANDER, Mrs. CHRISTENSEN, Mr. REHBERG, Mr. KIND, Mrs. NAPOLITANO, Mr. UDALL of New Mexico, Mr. GRIJALVA, Mr. CARDOZA, Mr. TOWNS, Mr. PAYNE, Ms. NORTON, Mr. BECERRA, Mr. HASTINGS of Florida, Mr. HOLDEN, Ms. BERKLEY, Mr. CROWLEY, Ms. SCHAKOWSKY, Mr. LANGEVIN, Ms. SOLIS, Mr. WU, Ms. WATSON, Mr. CASE, Mr. SCOTT of Georgia, and Ms. MATSUI):

H.R. 1595. A bill to implement the recommendations of the Guam War Claims Review Commission; to the Committee on Resources.

By Mr. ALEXANDER (for himself, Mr. BAKER, Mr. JINDAL, Mr. JEFFERSON, Mr. BOUSTANY, Mr. MCCREERY, and Mr. MELANCON):

H.R. 1596. A bill to amend the Outer Continental Shelf Lands Act to promote uses on the Outer Continental Shelf; to the Committee on Resources.

By Ms. BALDWIN (for herself, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. CHABOT, Mr. GONZALEZ, and Mr. SENSENBRENNER):

H.R. 1597. A bill to amend the Internal Revenue Code of 1986 to increase the age limit for the child tax credit; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. EVANS, Mr. FILNER, Ms. HART, Mr. FOLEY, Mr. FOSSELLA, and Mr. WHITFIELD):

H.R. 1598. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Mr. BRADLEY of New Hampshire:

H.R. 1599. A bill to amend the Internal Revenue Code of 1986 to extend for two years the higher exemption amounts under the alternative minimum tax for individuals and to adjust the exemption amounts and phaseout thresholds in the alternative minimum tax for inflation; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. RAHALL, Mr. SHIMKUS, Mr. COSTELLO, and Mr. NEY):

H.R. 1600. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Resources.

By Mr. FATTAH:

H.R. 1601. A bill to require a study and comprehensive analytical report on transforming America by reforming the Federal tax code through elimination of all Federal taxes on individuals and corporations and replacing the Federal tax code with a transaction fee-based system; to the Committee on Ways and Means.

By Mr. GALLEGLY:

H.R. 1602. A bill to provide grants for prosecutions of cases cleared through use of DNA backlog clearance funds; to the Committee on the Judiciary.

By Mr. GINGREY:

H.R. 1603. A bill to require the Bureau of Alcohol, Tobacco, Firearms, and Explosives to make video recordings of the examination and testing of firearms and ammunition, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER:

H.R. 1604. A bill to amend title 10, United States Code, to provide for the inclusion of hazardous duty pay and diving pay in the computation of military retired pay for members of the Armed Forces with extensive hazardous duty experience, to require a Comptroller General study on the need for a tax credit for businesses that employ members of the National Guard and Reserve, and to require a report by the Secretary of Defense on the expansion of the Junior ROTC and similar military programs for young people; to the Committee on Armed Services.

By Mr. HENSARLING:

H.R. 1605. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on House Administration.

By Mr. HENSARLING:

H.R. 1606. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on House Administration.

By Mr. HERGER (for himself and Mr. POMEROY):

H.R. 1607. A bill to amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes; to the Committee on Ways and Means.

By Ms. HERSETH (for herself, Mr.

OSBORNE, Mr. PETERSON of Minnesota, Mr. KING of Iowa, Mr. BERRY, Mr. POMEROY, Mr. GRAVES, Mr. BOSWELL, Ms. MCCOLLUM of Minnesota, Mr. SKELTON, Mr. KENNEDY of Minnesota, Ms. KAPTUR, Mr. MCHUGH, Mr. FORTENBERRY, Mr. MORAN of Kansas, Mr. LEACH, Mr. RYUN of Kansas, Mr. STRICKLAND, Mr. LATHAM, Mr. LAHOOD, Ms. CARSON, Mr. PENCE, Mr. NUSSLE, Mr. TERRY, and Mr. CHANDLER):

H.R. 1608. A bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOLT:

H.R. 1609. A bill to reduce until December 31, 2008, the duty on potassium sorbate; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 1610. A bill to reduce until December 31, 2008, the duty on sorbic acid; to the Committee on Ways and Means.

By Ms. HOOLEY:

H.R. 1611. A bill to modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index; to the Committee on Armed Services.

By Ms. KAPTUR:

H.R. 1612. A bill to establish ethanol and biodiesel fuel requirements for the Federal fleet; to the Committee on Government Reform.

By Mr. KENNEDY of Rhode Island (for

himself, Mr. FRANK of Massachusetts, Mr. HINCHEY, Ms. MILLENDER-MCDONALD, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. GEORGE MILLER of California, Mr. MCDERMOTT, Mr. GRIJALVA, Ms. LINDA T. SANCHEZ of California, Mr. OWENS, Ms. WOOLSEY, Mr. KUCINICH, Mr. PLATTS, Mr. ABERCROMBIE, Mr. WEXLER, Mrs. LOWEY, Mr. HIGGINS, Mr. HINOJOSA, and Mr. SERRANO):

H.R. 1613. A bill to amend the Public Health Service Act to authorize formula grants to States to provide access to affordable health insurance for certain child care providers and staff, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 1614. A bill to amend the Internal Revenue Code of 1986 to reduce estate tax rates by 20 percent, to increase the unified credit against estate and gift taxes to the equivalent of a \$3,000,000 exclusion and to provide an inflation adjustment of such amount, and for other purposes; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Mr.

PETRI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEACH, Mr. FARR, Mr. SHAYS, Mr. PALLONE, Mr. RAMSTAD, Mr. KILDEE, Mr. JOHNSON of Illinois, Mr. SPRATT, Mr. WALSH, Mrs. TAUSCHER, Mr. BOEHLERT, and Mr. GEORGE MILLER of California):

H.R. 1615. A bill to ensure that proper planning is undertaken to secure the preservation and recovery of the salmon and steelhead of the Columbia River basin and the maintenance of reasonably priced, reliable power, to direct the Secretary of Commerce to seek scientific analysis of Federal

efforts to restore salmon and steelhead listed under the Endangered Species Act of 1973, and for other purposes; to the Committee on Resources, and in addition to the Committee on 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. MCHENRY (for himself, Mr. GRAVES, Mr. KENNEDY of Minnesota, Mr. SOUDER, Mr. BURTON of Indiana, Mr. WALDEN of Oregon, Ms. FOX, Miss MCMORRIS, and Mr. BOOZMAN):

H.R. 1616. A bill to amend the Controlled Substances Act to provide an increased penalty for endangering the life of a child while illegally manufacturing a controlled substance; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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. PETRI:

H.R. 1617. A bill to allow borrowers consolidating student loans to choose a variable or fixed interest rate, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RENZI (for himself, Mr. SMITH of New Jersey, Mr. HAYWORTH, and Mr. JONES of North Carolina):

H.R. 1618. A bill to amend title 38, United States Code, to establish a group disability insurance benefit for members of the Armed Forces who incur certain severe disabilities; to the Committee on Veterans' Affairs.

By Mr. SANDERS (for himself, Mr. WEINER, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Mr. KUCINICH, Mr. GEORGE MILLER of California, Ms. LEE, Mr. EVANS, Mr. JACKSON of Illinois, Mr. GRIJALVA, Ms. KILPATRICK of Michigan, Ms. WOOLSEY, Mr. TIERNEY, Mr. STARK, Mr. CUMMINGS, Ms. SCHAKOWSKY, Mr. MCGOVERN, and Mr. LANTOS):

H.R. 1619. A bill to amend the Truth in Lending Act to protect consumers from usury and unreasonable fees, and for other purposes; to the Committee on Financial Services.

By Mr. SHERMAN (for himself and Mr. SMITH of Texas):

H.R. 1620. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on Government Reform.

By Mr. SIMMONS (for himself, Mr. VAN HOLLEN, Mrs. CAPITO, Mr. FERGUSON, Mr. ROGERS of Michigan, Mr. WILSON of South Carolina, Mr. HOEKSTRA, Mrs. MILLER of Michigan, Mr. GERLACH, Mr. MCCOTTER, Mr. MCHUGH, Mr. SHIMKUS, Mr. DAVIS of Kentucky, Mr. SMITH of New Jersey, Mr. PITTS, Mr. LOBIONDO, Mr. HAYES, Mr. HOYER, Mr. MORAN of Virginia, Ms. KILPATRICK of Michigan, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. CARDIN, Ms. NORTON, Mr. BISHOP of New York, Mr. PRICE of North Carolina, Mr. COOPER, Mr. TIBERI, Mr. HOLT, Mr. RANGEL, Mr. FRANK of Massachusetts, Ms. FOX, and Mr. LATOURETTE):

H.R. 1621. A bill to amend the Internal Revenue Code of 1986 to repeal the authority of the Secretary of the Treasury to enter into private tax collection contracts; to the Committee on Ways and Means.

By Mr. STEARNS:

H.R. 1622. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STRICKLAND:

H.R. 1623. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

By Mr. THOMPSON of California (for himself, Mr. BOSWELL, Mr. SALAZAR, Mr. CRAMER, Mr. BISHOP of Georgia, Ms. HERSETH, Mr. CHANDLER, Mrs. TAUSCHER, Mr. COSTA, Mr. ISRAEL, Mr. CARDOZA, Mr. BERRY, Mrs. MCCARTHY, and Ms. HOOLEY):

H.R. 1624. A bill to amend the Internal Revenue Code of 1986 to provide for the immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Ways and Means.

By Mr. VISCLOSKEY:

H.R. 1625. A bill to amend the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes" to clarify the authority of the Secretary of the Interior to accept donations of lands that are contiguous to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Resources.

By Mr. WU:

H.R. 1626. A bill to amend part D of title XVIII of the Social Security Act to authorize the Secretary of Health and Human Services to negotiate for lower prices for Medicare prescription drugs and to eliminate the gap in coverage of Medicare prescription drug benefits, to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 1627. A bill to amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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. FOLEY (for himself, Mr. SHAYS, and Ms. FOX):

H.J. Res. 41. A joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a United States citizen unless a parent is a United States citizen, or is lawfully admitted for permanent residence in the United States, at the time of the birth; to the Committee on the Judiciary.

By Mr. DREIER:

H. Con. Res. 131. Concurrent resolution expressing the sense of Congress relating to a free trade agreement between the United States and the European Union (EU); to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself, Mr. MEEHAN, Mr. ISSA, Mr. GRIJALVA, Mrs. DAVIS of California, Mr. LARSEN of Washington, Mr. RYAN of Ohio, Mr. SMITH of Washington, Mr. BARTLETT of Maryland, Mr. REYES, Mr. MCINTYRE, Mr. JONES of North Carolina, Mrs. JONES of Ohio, Mr. ABERCROMBIE, Mr. SKELTON, Mr. SNYDER, Mr. SPRATT, Mr. SHIMKUS, Mrs. MCCARTHY, Mr. HAYES, Mrs. DRAKE, Ms. KAPTUR, Mr. TAYLOR of Mississippi, and Mr. NEUGEBAUER):

H. Res. 212. A resolution honoring military children during "National Month of the Mili-

tary Child"; to the Committee on Armed Services.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. GUTIERREZ introduced A bill (H.R. 1628) for the relief of Elvira Arellano; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under Clause 7 of Rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mrs. NORTHUP, Mr. ISSA, and Mr. GALLEGLY.

H.R. 13: Mr. LAHOOD.

H.R. 22: Mr. DUNCAN, Mr. BRADLEY of New Hampshire, Mr. LATOURETTE, and Mr. TURNER.

H.R. 25: Mr. GRAVES.

H.R. 49: Mr. MCDERMOTT.

H.R. 69: Mr. MCCAUL of Texas.

H.R. 97: Mr. EDWARDS and Mrs. DRAKE.

H.R. 147: Ms. HART.

H.R. 266: Mr. BOUSTANY.

H.R. 269: Mr. CARDOZA.

H.R. 304: Mr. CARDOZA.

H.R. 311: Mr. BARROW, Mr. KIRK, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. MORAN of Virginia, Mr. MCNULTY, Mr. NADLER, Mr. LANTOS, Mr. NEAL of Massachusetts, Mr. HASTINGS of Florida, Ms. BORDALLO, Mr. ETHERIDGE, Mr. ROSS, Mr. WU, Mr. TOWNS, Mr. JEFFERSON, and Mr. WEINER.

H.R. 312: Ms. ROS-LEHTINEN.

H.R. 339: Mr. SENSENBRENNER.

H.R. 371: Ms. HERSETH, Mr. NORWOOD, Mr. BERRY, Mr. ANDREWS, and Mr. HOLT.

H.R. 466: Mr. GREEN of Wisconsin.

H.R. 523: Mr. HENSARLING.

H.R. 525: Mr. MARIO DIAZ-BALART of Florida, Ms. LEE, Mr. SMITH of Texas, and Mr. BURGESS.

H.R. 527: Ms. ZOE LOFGREN of California, Mr. MURTHA, and Mr. CASE.

H.R. 535: Mr. GEORGE MILLER of California, Ms. HARMAN, Mr. RANGEL, and Ms. ESHOO.

H.R. 556: Mr. LANTOS, Mr. OLVER, and Ms. SCHWARTZ of Pennsylvania.

H.R. 558: Mr. CARDOZA.

H.R. 602: Mr. RANGEL, Mr. SHAW, Mrs. JONES of Ohio, Mrs. KELLY, Mrs. BONO, Mr. CRAMER, Ms. SCHWARTZ of Pennsylvania, and Mr. RAHALL.

H.R. 624: Mr. GOODLATTE.

H.R. 625: Mr. LANTOS.

H.R. 651: Mr. SKELTON.

H.R. 653: Mr. WU, Mr. CARNAHAN, Mrs. NAPOLITANO, Mr. MEEKS of New York, Ms. HERSETH, Mr. MCGOVERN, and Mr. CHANDLER.

H.R. 669: Mr. WALSH.

H.R. 676: Mr. OLVER.

H.R. 712: Mr. WAMP.

H.R. 719: Mr. EVERETT, Mr. BERRY, Mr. HINCHEY, Mr. SNYDER, Mr. THOMPSON of Mississippi, Mr. FARR, Mr. GORDON, and Mr. LAHOOD.

H.R. 758: Ms. GRANGER.

H.R. 762: Mr. RYAN of Ohio.

H.R. 763: Mr. RYAN of Ohio.

H.R. 772: Mr. SCOTT of Georgia, Mr. GRIJALVA, Mr. MENENDEZ, and Mr. GENE GREEN of Texas.

H.R. 780: Ms. WATSON, Mrs. CHRISTENSEN, Mr. INSLEE, Mr. ETHERIDGE, and Mr. MOORE of Kansas.

H.R. 787: Mr. DANIEL E. LUNGREN of California, Mr. MCKEON, Ms. HARMAN, and Mr. CUNNINGHAM.

H.R. 798: Mr. LEWIS of Kentucky.

H.R. 808: Mr. ABERCROMBIE, Mr. BOYD, Mr. BUTTERFIELD, Mrs. JO ANN DAVIS of Virginia,

Mr. FORTUÑO, Mr. FRANK of Massachusetts, Mr. GUTTERREZ, Ms. HERSETH, Mr. HOLDEN, Mr. KIND, Mr. NEAL of Massachusetts, Mr. PAUL, Mr. VAN HOLLEN, Mr. MURPHY, Mr. CONAWAY, Mr. MICHAUD, Mr. LATOURETTE, Mr. GRIJALVA, Ms. LEE, Mr. BAKER, Mr. BERRY, Mr. HEFLEY, Mr. SERRANO, Mr. ALEXANDER, and Mr. ORTIZ.

H.R. 809: Mr. HOSTETTLER, Mr. ROYCE, Mr. TURNER, Mr. GREEN of Wisconsin, Mr. SESSIONS, and Mr. CULBERSON.

H.R. 819: Mr. JOHNSON of Illinois, Mrs. KELLY, Mr. PETERSON of Minnesota, Ms. ROSLEHTINEN, and Mr. GUTKNECHT.

H.R. 827: Mr. CAMP.

H.R. 867: Mr. CUELLAR.

H.R. 869: Mr. FRANK of Massachusetts.

H.R. 881: Mr. SHAW.

H.R. 908: Mr. TOWNS.

H.R. 913: Mr. MILLER of Florida, Mr. MCGOVERN, Mr. DAVIS of Alabama, Mr. BOUCHER, Mr. FEENEY, Mr. FLAKE, and Ms. HOOLEY.

H.R. 923: Mr. TIERNEY and Mr. LIPINSKI.

H.R. 939: Mr. MEK of Florida, Mr. FARR, Mrs. DAVIS of California, Mr. NADLER, Mr. SERRANO, and Mr. STARK.

H.R. 946: Ms. WOOLSEY.

H.R. 986: Mr. FILNER.

H.R. 995: Mr. MCGOVERN.

H.R. 1029: Mr. LEWIS of Georgia and Mr. MICHAUD.

H.R. 1073: Mr. FORTUÑO.

H.R. 1074: Mr. FORTUÑO.

H.R. 1075: Mr. FORTUÑO.

H.R. 1079: Mr. PETRI.

H.R. 1095: Mr. RANGEL.

H.R. 1103: Ms. MCCOLLUM of Minnesota and Mr. JOHNSON of Illinois.

H.R. 1106: Mr. ALLEN and Mr. MURPHY.

H.R. 1107: Mr. LANTOS.

H.R. 1108: Ms. LEE and Mr. WAXMAN.

H.R. 1114: Mr. POMBO.

H.R. 1131: Mr. GUTIERREZ.

H.R. 1133: Ms. ROS-LEHTINEN, Mr. BERMAN, Mr. BLUMENAUER, Mr. KENNEDY of Rhode Island, Mr. KENNEDY of Minnesota, Mr. PALLONE, Mr. SCHIFF, Mr. TANCREDO, and Mr. KUHL of New York.

H.R. 1140: Mr. PAUL.

H.R. 1175: Ms. MOORE of Wisconsin.

H.R. 1194: Mr. GRIJALVA.

H.R. 1214: Mr. UDALL of Colorado.

H.R. 1219: Mr. UPTON, Mr. SHADEGG, Mrs. DRAKE, Mr. DEAL of Georgia, and Mr. MCCAUL of Texas.

H.R. 1227: Mr. SABO, Mr. TIERNEY, Mr. STARK, and Mr. SNYDER.

H.R. 1239: Mr. GOODE, Mr. NEAL of Massachusetts, Mr. SPRATT, Mr. PETRI, Mrs. MYRICK, Mr. MILLER of Florida, Mr. ALEXANDER, Mr. INGLIS of South Carolina, Mr. PASCRELL, Mr. LATHAM, Mr. HOSTETTLER, and Mr. MCCOTTER.

H.R. 1258: Mr. PAYNE and Mr. CUMMINGS.

H.R. 1259: Mr. KILDEE.

H.R. 1262: Mr. FITZPATRICK of Pennsylvania, Mr. BOOZMAN, Mr. BERMAN, Mr. MANZULLO, Mr. ALLEN, and Mr. GRIJALVA.

H.R. 1273: Mr. GUTKNECHT, Mr. KENNEDY of Minnesota, and Mr. GREEN of Wisconsin.

H.R. 1279: Mr. GALLEGLY.

H.R. 1281: Mr. RANGEL and Mr. JEFFERSON.

H.R. 1309: Mr. GRIJALVA and Mr. RANGEL.

H.R. 1316: Mr. PAUL, Mr. DOOLITTLE, Mr. SESSIONS, Mr. COLE of Oklahoma, and Mr. MILLER of Florida.

H.R. 1317: Mr. WAXMAN.

H.R. 1329: Mr. NADLER, Mr. BOSWELL, Mr. BROWN of Ohio, Mr. MORAN of Virginia, and Mr. MCDERMOTT.

H.R. 1337: Mr. CULBERSON, Mr. GOODE, Mr. CANTOR, Mr. CONAWAY, Mr. COLE of Oklahoma, Mr. GINGREY, Mr. CARTER, Mr. MARCHANT, Mr. COX, Mr. RYAN of Wisconsin, Mr. SAM JOHNSON of Texas, Mr. HENSARLING, Mr. TANCREDO, Mr. DOOLITTLE, Mr. POE, Mr. PRICE of Georgia, Mr. BARRETT of South Carolina, and Mr. SODREL.

H.R. 1339: Mr. LAHOOD, Mr. REHBERG, Mr. BOOZMAN, and Mr. GRAVES.

H.R. 1355: Ms. FOX, Mr. WELDON of Florida, Mr. MCHENRY, Mr. JONES of North Carolina, Mr. GUTKNECHT, Mr. HENSARLING, Mr. GOHMERT, Mr. CUELLAR, Mr. FORTENBERRY, Mr. MARIO DIAZ-BALART of Florida, and Ms. WASSERMAN SCHULTZ.

H.R. 1356: Mr. TAYLOR of Mississippi.

H.R. 1357: Mr. RAHALL.

H.R. 1358: Ms. Ms. BORDALLO, Mr. MCGOVERN, Mr. EVANS, Mr. BARROW, Ms. HARRIS, Mr. SPRATT, Mr. TAYLOR of Mississippi, Mr. GORDON, and Mr. DEFazio.

H.R. 1362: Mr. PAYNE.

H.R. 1376: Mr. MEEHAN, Mr. COX, Mr. SMITH of New Jersey, Mr. MARKEY, Mr. DAVIS of Illinois, Mr. CUMMINGS, Mr. WEINER, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, Mr. MICHAUD, and Mr. BOEHLERT.

H.R. 1384: Mr. SHUSTER, Mr. KUHL of New York, Mrs. DRAKE, Ms. FOX, Mr. SAM JOHNSON of Texas, Mr. TANCREDO, Mr. JONES of North Carolina, Mr. DOOLITTLE, Mr. GOODE, Mr. CONAWAY, Mr. PENCE, Mr. CULBERSON, Mr. COLE of Oklahoma, and Mr. GARRETT of New Jersey.

H.R. 1401: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ISRAEL, and Mr. STARK.

H.R. 1402: Ms. KAPTUR.

H.R. 1406: Ms. BORDALLO.

H.R. 1410: Ms. WOOLSEY.

H.R. 1421: Mr. TERRY, Mr. UPTON, and Mr. GILLMOR.

H.R. 1425: Mr. LANTOS.

H.R. 1445: Mr. WEXLER, Mr. PITTS, Mr. ALEXANDER, and Mr. BARTLETT of Maryland.

H.R. 1446: Mr. COLE of Oklahoma, Mr. OSBORNE, Mr. MCHENRY, Mr. TERRY, Ms. GINNY BROWN-WAITE of Florida, and Mr. BOOZMAN.

H.R. 1449: Mr. BOUSTANY, Mr. PITTS, and Mr. SESSIONS.

H.R. 1471: Mr. BRADLEY of New Hampshire, Mrs. JOHNSON of Connecticut, Mr. UPTON, Ms. DELAULO, and Mr. RENZI.

H.R. 1500: Mr. MILLER of Florida.

H.R. 1520: Mr. SNYDER.

H.R. 1521: Mr. BRADY of Pennsylvania.

H.R. 1540: Mr. ROHRBACHER.

H.R. 1554: Mr. WALDEN of Oregon.

H.R. 1565: Ms. DEGETTE and Mr. Lipinski.

H.R. 1578: Mr. WAMP, Mr. SENSENBRENNER, and Mr. CANNON.

H.J. Res. 23: Mr. WU, Mr. EVANS, Mr. WEINER, Mr. SERRANO, and Mr. KENNEDY of Rhode Island.

H.J. Res. 27: Mr. SENSENBRENNER.

H.J. Res. 28: Ms. MOORE of Wisconsin, Mr. FILNER, Ms. LINDA T. SANCHEZ of California, and Mr. GRIJALVA.

H.J. Res. 29: Mr. DAVIS of Illinois, Mr. PAYNE, Mr. GRIJALVA, and Mr. BISHOP of Georgia.

H.J. Res. 30: Mr. HINCHEY, Mr. LEWIS of Georgia, Ms. WOOLSEY, Mr. DAVIS of Illinois, Mr. GRIJALVA, and Mr. SANDERS.

H. Con. Res. 24: Mr. INSLEE, Mr. FALCOMA, Mr. GERLACH, Mr. DELAHUNT, Mr. MARKEY, Mr. SIMMONS, Mr. STRICKLAND, Mr. VAN HOLLEN, Mr. BACA, Ms. LINDA T. SANCHEZ of California, Mr. FARR, Mr. FILNER, Mr. BUTTERFIELD, Mr. SERRANO, Mr. BRADY of Pennsylvania, Mr. HOLDEN, Mr. KUCINICH, Ms. LORETTA SANCHEZ of California, Mr. LARSEN of Washington, Ms. SCHAKOWSKY, Ms. WOOLSEY, Mr. MCGOVERN, Mr. BROWN of Ohio, Mr. KILDEE, Mr. GRIJALVA, Mr. RYAN of Ohio, and Mr. STUPAK.

H. Con. Res. 71: Mr. THOMPSON of Mississippi and Mr. BURTON of Indiana.

H. Con. Res. 87: Mr. GRIJALVA.

H. Con. Res. 89: Mr. SMITH of New Jersey, Mr. CHANDLER, Mr. CHABOT, Mr. BERMAN, Mr. PENCE, Mr. FALCOMA, and Ms. LEE.

H. Con. Res. 90: Ms. WOOLSEY, Mr. HONDA, Mr. FILNER, Mr. RANGEL, Ms. BALDWIN, Mr. TANCREDO, Mr. HOBSON, Mr. KUCINICH, Mr. SMITH of New Jersey, and Ms. ESHOO.

H. Con. Res. 102: Mr. FALCOMA and Mr. HOLT.

H. Con. Res. 107: Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 14: Mr. GILLMOR, Mr. PUTNAM, and Mr. ENGLISH of Pennsylvania.

H. Res. 85: Mr. MEEHAN.

H. Res. 137: Mrs. EMERSON, Mr. BOSWELL, Mr. CASE, and Mr. BONNER.

H. Res. 175: Mr. MEEHAN and Mr. MCDERMOTT.

H. Res. 185: Mrs. CHRISTENSEN.

H. Res. 197: Mr. FILNER, Mr. GENE GREEN of Texas, Mr. LANGEVIN, Mr. HONDA, Ms. SLAUGHTER, Mr. BLUMENAUER, Mr. GORDON, Ms. SCHAKOWSKY, Mrs. LOWEY, Mr. CLYBURN, Mr. CARNAHAN, Mr. PASCRELL, and Mr. DOGGETT.

H. Res. 208: Mr. WILSON of South Carolina, Mr. SABO, Mr. MURTHA, Mr. TERRY, Mrs. WILSON of New Mexico, Mr. WALDEN of Oregon, Mr. OTTER, and Mr. MCGOVERN.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 513: Mr. BISHOP of New York.

H.R. 525: Mr. TOWNS.





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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109<sup>th</sup> CONGRESS, FIRST SESSION

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No. 43

## Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Thou great God, who made us in Your image. Thank You for creating us but little lower than the angels. Enable us to see Your divine image in every human being. Help us to look beyond poverty and pathology to the goodness even in the unlovely. Teach us to look beneath superficial differences of accents, of language, of color, and of position to see the true worth of all people.

Bless Your servants in the legislative branch of Government. Bring to the surface the goodness within each of them. As they think together and work together in the Chamber, in committee rooms, and in their offices, help them to treat others with the reverence, respect, and kindness that You desire for all of Your children.

We pray for our military men and women. Keep them safe. Give them the will to pursue mercy as well as justice. We also pray for our enemies and their loved ones. Lord, give all of us insight into Your will and the courage to do it. 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.

### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a

period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, we will begin today's session with a 1-hour period of morning business. Following that time, the Senate will resume debate on the emergency supplemental appropriations bill. Last night we agreed to a time limit of 40 minutes with respect to the pending Durbin amendment relating to the National Guard. If we are able to yield back some of that debate time, we would have a vote on the Durbin amendment by 10:50 this morning. If the debate continues past that point, then we will likely delay the vote on the amendment until sometime after noon today, after discussion with the Democratic leader. There are two additional pending amendments at this time, and we anticipate other amendments being offered throughout the day. Chairman COCHRAN will be here this morning to prepare to have the Senate debate and dispose of these amendments during today's session. I expect we will make considerable progress on the appropriations bill with rollcall votes as necessary over the course of the day.

Just as a reminder to our colleagues, the Secretary of State will be giving a briefing to Senators today from 3 to 4 this afternoon for those interested.

### RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

### ORDER OF BUSINESS

Mr. REID. Through the Chair to my distinguished colleague, are we expected to work through the Condoleezza Rice hour?

Mr. FRIST. Through the Chair, our expectation is to work through that hour. As the Democratic leader knows, and as our colleagues should know, we are trying to do briefings on a regular basis to make the opportunity available for people to come to these briefings. We do not need to stop action on the Senate floor. So we will be working through that period.

### TRIBUTE TO POPE JOHN PAUL II

Mr. FRIST. Mr. President, I wish to comment on the passing of Pope John Paul II last week. A number of us had the opportunity to represent the United States, represent this body in Rome. It was a moving experience, an emotional experience, and one that I briefly want to share.

The passing of Pope John Paul II was moving. It was a historical event that riveted the world. Millions of Catholics and non-Catholics alike were touched and influenced by this great man. He leaves an extraordinary legacy that all of us have reflected upon over the last week.

In his 26-year reign as head of the Catholic Church, the third longest pontificate in history, Pope John Paul was seen by more people than any other individual in history. He influenced more lives than many kings and presidents before him.

Together with Ronald Reagan and Margaret Thatcher, Pope John Paul helped vanquish the Soviet Union, expose the brutality of communism, and free hundreds of millions of people around the world.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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He, indeed, was a hinge of history, one of the great leaders of the 20th century who helped make our world over on the pillars of faith, freedom, liberty, and human dignity.

As I mentioned, I had the real privilege of leading a delegation of 14 Senators to pay tribute to this great leader. We left last Wednesday. As we soared over the Atlantic, all of us shared our thoughts and stories and reflected upon the Pope's remarkable life. Not only did he live through the great upheavals of the 20th century, but he helped bring about many of its greatest achievements.

As a young man in war-torn Poland, he lived under those heavy boots of fascism and communism, and yet even then he possessed an enduring hope and commitment to man's redemption.

To our great fortune, Karol Wojtyła ascended the world's stage and, as the 264th Pope of the Catholic Church, pressed belief into global action.

In the Catholic Church, he grew its religious following from 757 million faithful when he began his papacy in 1978 to over 1 billion today.

We arrived as a delegation in Rome on Thursday morning. The weather was truly glorious that day; one might even say Heaven-sent weather—clear blue skies, sunshine, a gentle wind.

After a brief moment to organize, we went to Vatican City. As we drove along the roadways, posters lined the city walls with giant pictures of John Paul embazoned with the words "grazie" and "a dio." As we pulled closer to St. Peter's Square, priests, monks, pilgrims, and well-wishers from around the world, many Americans, would come up and say hello to us, all crowding those stone streets around the Basilica.

On that first day, our delegation was escorted into St. Peter's to view the Pope's body. We filed into the crowds as they passed respectfully. Many had waited hours and hours, indeed, well over 24 hours on average. They passed by bowing, saying prayers, crossing themselves, and waving small papal flags. As we came around the corner, we came into view of the Holy Father. It was a powerful moment for our entire delegation—the viewing. It was the first of many powerful moments over the remainder of that day and the next day when the service actually occurred.

As we passed by the body, you could not help but to pause and run through a series of your own prayers of thankfulness, as each and every one of us did.

The next day was the funeral. Again, it was a beautiful day—crisp weather, morning sky glistening overhead. The square was full, silent, solemn, and respectful. We were privileged to enter the Square and find our seats. Our seats were out front, probably 50 or 75 yards, both the Senate and House delegations.

The ceremony was about 2½ hours. Many people have had the opportunity to see it on television, but the presence

there, that sense of time and place is difficult to describe. You could feel the powerful strength of the man for whom we all gathered and prayed. It was uplifting, it was serious, and a very dignified celebration in many ways.

As the funeral drew to a close, the adoration for Pope John Paul crescendoed to almost an electric pitch. I heard my colleagues who were with us describe it to our other colleagues over the course of the last 48 hours that way off in the distance we began to hear clapping and the roar of the crowd as it came forward, a huge wave all the way up to St. Peter's and then to the Basilica. It was truly a moving and powerful experience.

The crowd did, at the end, begin to chant and begin to cheer as the Pope was held up one last time in that wooden coffin and dipped down to the people in St. Peter's. He was then lifted aloft and carried solemnly into the Basilica for his final burial.

In closing, I know I speak for all my colleagues when I say it was a tremendous honor for those of us who were able to attend on behalf of our fellow Americans and this institution in paying our respects for a momentous and truly historic world figure.

Pope John Paul will be remembered for many things: his intellect, his charisma, his warmth, his steadfast belief in the culture of life. Above all, he will be remembered for his humble dedication to God and his unwavering love for us all, each and every one a child of God.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to take up to 20 minutes of the majority time, and I respectfully ask the President pro tempore to notify me when I have 2 minutes remaining.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, having heard the words of the majority leader relative to the delegation that was in Rome last week for the burial of Pope John Paul II, I think all Americans, as well as every other individual around the world, were truly moved by the work of this man over the years he served as Pope of the Roman Catholic Church.

Having been to Rome a couple of years ago and been in a service that Pope John Paul II celebrated, I, too, was very moved by the presence of this man. Certainly during his term as Pope he had a tremendous impact on the world, and this man is truly going to be missed as a leader, not just of the religious world but as the world leader that he was.

#### JUDICIAL NOMINEES

Mr. CHAMBLISS. Mr. President, I rise this morning to discuss an issue that is very dear to my heart. I practiced law for 26 years before I came to

Congress and I had the pleasure of trying many cases before any number of judges, both at the State and Federal level, and I am very much concerned about what is happening with our judiciary today. For the last 2 years, I served on the Senate Judiciary Committee and have observed what obviously happened during those 2 years, but during the last few months, as we entered into this new session and approached the confirmation of nominees who are being put forward by the President, I remain concerned about some things that are happening.

I will start by noting again that never before in the history of the Senate has a minority of 41 Senators held up confirmation of a judicial nominee where a majority of Senators has expressed their support for that nominee. It is for this reason, if given the opportunity, I will vote in favor of changing our rules to allow confirmation of a judicial nominee by a simple majority because under the Constitution of the United States, the Senate is required to give its advice and consent to the President on his judicial nominees.

The Senate can say no in regard to any particular nominee, but to do so we need an up-or-down vote to decide what advice we give the President. Failing to answer the question is shirking our constitutional role in the separation of powers scheme. The Constitution spells out in certain areas, such as passage of constitutional amendments and ratification of treaties, where more than a simple majority of Senators is required. Confirmation of judges is not one of these areas.

The Senate rules have changed on several occasions over the years as to whether and in what circumstances a filibuster is allowed, but we have, unfortunately, come to a point in time where the filibuster is being abused to hold up judicial nominees on which we are required to act; that is, to say yes or no. I believe it is in violation of the Constitution.

I want to take a point in fact relative to the circuit in which I practiced for a number of years, and that is what is happening today with regard to the judicial nominee to the Eleventh Circuit Court of Appeals. The Democrats have held up confirmation of the only nominee President Bush has made to the Eleventh Circuit Court which handles Federal appeals in my home State of Georgia as well as Alabama and Florida.

As a result, on February 20 of last year, President Bush exercised his constitutional authority to make a recess appointment of Judge Bill Pryor, the former attorney general of the State of Alabama. This recess appointment is temporary in nature, but President Bush has renominated Judge Pryor in the 109th Congress for a permanent position on the Eleventh Circuit Court of Appeals.

As a former member of the Senate Judiciary Committee, I know we need to review with great care the qualifications of judicial nominees to ensure

that they have established a record of professional competence, integrity, and the proper temperament for judicial service. I intend to vote for confirmation of Judge Pryor's nomination to the Eleventh Circuit for the following reasons: Since his recess appointment, Judge Pryor has gained the respect of his colleagues on the Eleventh Circuit without regard to political persuasions. This is no surprise to me because Judge Pryor is a tremendously selfless public servant who has worked very hard to help others both within and outside the scope of his official duties.

In private life, he established a program called Mentor Alabama which provides adult role models for at-risk children, and he has personally acted as such a mentor. In his service as attorney general for the State of Alabama, Bill Pryor established a record of evenhanded enforcement of the law. A noteworthy example of his fair-minded treatment of his public duties is his enforcement of Alabama abortion laws. Bill Pryor is personally opposed to abortion based on his deeply held faith as a Roman Catholic. However, in 1997, the Alabama Legislature enacted a ban on partial birth abortion that did not comport with the Supreme Court's decision in *Planned Parenthood v. Casey*. The Alabama statute prohibited abortions prior to as well as following viability of the fetus. Attorney General Pryor ordered law enforcement officials to enforce the law only insofar as it was consistent with the Supreme Court's precedents which encompassed only postviability situations. In so doing, he adopted the narrowest possible construction of the Alabama statute.

Moreover, in the wake of September 11, 2001, many abortion clinics were receiving letters with threats of anthrax exposure. In response, Attorney General Pryor held a press conference in which he asserted that the Alabama law "provides stern felony penalties for those who now prey upon the public anxiety over fears of anthrax and other potential dangers. We warn anyone who is tempted to do so that their deeds are not a joke and will not be treated as mild misbehavior, but as a despicable crime against their fellow citizens that will not be tolerated." At this crucial time in history, Bill Pryor's statement sent a clear message that anthrax threats against abortion clinics would be prosecuted vigorously.

Despite his personal religious convictions, Bill Pryor has a keen knowledge of the Constitution's requirement that the Government make no law respecting the establishment of religion or prohibiting the free exercise thereof.

In *Chandler v. Siegleman*, as attorney general he persuaded the Eleventh Circuit to vacate a district court injunction that prohibited student-initiated prayers in school. Acknowledging the constitutional distinction between student-led prayers and teacher-led prayers, Bill Pryor refused to argue on appeal in favor of the constitutionality

of teacher-led prayers as was the position of then Alabama Governor Fob James. In addition, General Pryor rejected Governor James' suggestion that the State of Alabama argue that the first amendment was never incorporated by the 14th amendment and thus does not apply to the States.

In sum, Bill Pryor has established an impressive record as a fair, diligent, and competent public servant. His nomination to the Eleventh Circuit enjoys strong bipartisan support in his home State of Alabama, and in my home State, our attorney general, the Honorable Thurbert Baker, a Democrat, has written in support of Bill Pryor's nomination.

I urge my Democratic colleagues to stop holding up the confirmation of President Bush's only nominee to the Eleventh Circuit by voting to move forward with Judge Pryor's nomination when it reaches the floor.

Now let us look at another circuit. I just explained what the situation is with the Eleventh Circuit. Opposition to some of President Bush's nominees in other areas of the country such as the Ninth Circuit strikes me as odd because it directly contradicts what some Democrats have said in the past about the concept of balance on the courts.

My friend from the other side of the aisle, the senior Senator from New York, acknowledged a couple of years ago in a speech on the Senate floor that the Ninth Circuit was "by far the most liberal court in the country."

To quote from the CONGRESSIONAL RECORD of March 13, 2003, Senator SCHUMER stated:

I believe there has to be balance, balance on the courts. And I have said this many times, but there is nothing wrong with a Justice Scalia on the court if he is balanced by a Justice Marshall. I wouldn't want five Scalias, but one might make a good and interesting and thoughtful court with one Brennan. A Rehnquist should be balanced by a Marshall.

Four of President Bush's nominees to the Ninth Circuit—Richard Clifton, Jay Bybee, Consuelo Callahan, and Carlos Bea—have been confirmed and are now sitting on the Ninth Circuit. That is the good news. But Democrats refused to give an up-or-down vote to two of President Bush's nominees to the Ninth Circuit, or one-third of the judges he has nominated. When one considers that 14 out of the 26 active sitting judges on the Ninth Circuit Court of Appeals were appointed by President Clinton and 2 of them were confirmed in the last year of his Presidency, the Judiciary Committee and the Senate in general treated President Clinton fairly with respect to the Ninth Circuit. Moreover, of the 28 total seats on the Ninth Circuit, 17 were Democratic nominees, 14 by President Clinton and 3 by President Jimmy Carter.

We now have two remaining seats on the Ninth Circuit to fill, and we have seen two nominees from President Bush to fill these seats. The fairness that the Senate showed President Clin-

ton's nominees has not been applied to all of President Bush's nominees, as the two nominees, Carolyn Kuhl and Bill Myers, have been filibustered despite their tremendous qualifications.

President Clinton had 8 years in office and was able to put in over half the active judges on the Ninth Circuit Court of Appeals. I might add that some of these active judges turned out to be activist judges. But with due respect to my colleagues on the other side, it is time to balance out 17 Clinton and Carter nominees with qualified individuals such as Carolyn Kuhl and Bill Myers. That is the kind of balance we need on the Ninth Circuit.

One of the reasons the Ninth Circuit needs some balance is the outrageous nature of some of the decisions coming from that bench. For example, in the 1996-1997 term, Judge Reinhardt, a Carter appointee, was overturned six times in cases where he was the author of the majority opinion.

To cite specific examples of outrageous cases of judicial activism, the Ninth Circuit Court of Appeals has, first, barred children in public schools from voluntarily reciting the Pledge of Allegiance—that was in *Newdow v. U.S. Congress*, a 2002 case; second, initially barred California from holding a gubernatorial recall election notwithstanding a clear State statutory scheme and widespread popular support, which was a 2003 decision in the case of *Southwest Voter Registration Education Project v. Shelley*; third, invented a constitutional right to commit suicide, a 1996 decision, *Compassion in Dying v. Glucksberg*; and fourth, made it far more difficult to prosecute those who give material support to foreign terrorist organizations, the case of *Humanitarian Law Project v. U.S. Department of Justice*, a 2003 case.

Also, this court struck down California's three strikes criminal sentencing law in the case of *Andrade v. California* in 2001 and only implemented the Supreme Court's reversal of that decision by a divided panel with Judge Reinhardt upholding the defendant's sentence only under the Supreme Court's "compulsion" and Judge Pregerson stating that "in good conscience" he could not follow the Supreme Court's decision.

Lastly, that court held that a foreign national criminal apprehended abroad pursuant to a legally valid indictment was entitled to sue the U.S. Government for money damages, a 2003 case, *Alvarez-Machain v. United States*.

I could go on, but there is no small wonder, then, that even Senator SCHUMER has stated:

The Ninth Circuit is by far the most liberal court in the country. Unless this is the kind of activist court that Democrats want to preserve, it's time to at least allow an up-or-down vote on nominees like Carolyn Kuhl and Bill Myers to restore some balance.

There have been two issues that have been raised by the other side during the debate and the filibuster by the

other side of the aisle relative to the judicial nominees sent up by the President. One of those is the fact that filibustering Federal judges is not something that is new, and it is a contention of the other side of the aisle that Republicans initiated a filibuster on the nomination of Judge Abe Fortas back in the Johnson administration. I will once again set the record straight relative to exactly what happened, and I will quote because I want to make sure that we get this exactly right. This is from a statement made by the former chairman of the Judiciary Committee, Senator ORRIN HATCH, in some remarks that were made on the Senate floor on March 1, 2005. Senator HATCH stated as follows:

Some have said that the Abe Fortas nomination for Chief Justice was filibustered. Hardly. I thought it was, too, until I was corrected by the man who led the fight against Abe Fortas, Senator Robert Griffin of Michigan, who then was the floor leader for the Republican side and, frankly, the Democratic side because the vote against Justice Fortas, preventing him from being Chief Justice, was a bipartisan vote, a vote with a hefty number of Democrats voting against him as well. Former Senator Griffin told me and our whole caucus there never was a real filibuster because a majority would have beaten Justice Fortas outright. Lyndon Johnson, knowing that Justice Fortas was going to be beaten, withdrew the nomination. So that was not a filibuster. There had never been a tradition of filibustering majority-supported judicial nominees on the floor of the Senate until President Bush became President.

I think that factual statement by Senator HATCH says it all relative to any issue concerning the contention that this is not the first time we have seen filibusters on the floor of the Senate. As we move into the consideration of these judges for confirmation, I am not sure what is going to come out from the other side.

I have great respect, first of all, for this institution in which we serve. I am very humbled by the fact, as is every one of the 100 Senators here, that our respective States have seen fit to send us here to represent them. But as I traveled around the country last year, campaigning for President Bush, as well as for Senate nominees, I continuously heard from individuals—whether it was in a formal gathering or whether it was in an informal gathering such as, on a lot of occasions, being in airports, or sometimes even walking down the street—it was unbelievable the number of Americans, and I emphasize that these were not Republicans or Democrats in every instance, they were just Americans who were very much concerned about what is happening with respect to the judicial nominees on the floor of the Senate.

The PRESIDENT pro tempore. The Senator now has 2 minutes left, at which time there will be 10 minutes left for the majority.

Mr. CHAMBLISS. I thank the Chair.

This body has a number of rules which have been in place for decades. Those are good and valid rules and

need to be followed in most instances. But there comes a time when you have to look the American people in the eye and say: I know Americans sent a majority party to the Senate, and I know you want us to carry out the will of the American people but, unfortunately, even though it only takes 51 votes to confirm one of President Bush's judicial nominees, we have a Senate rule that says you have to have 60 votes before you get to the point where you only have to have 51 votes. It doesn't take a Philadelphia lawyer to figure out something is wrong with that rule, and it needs to be corrected.

As we move into the consideration of these judges, I hope we will reach an accord so the integrity of this institution will be maintained. Hopefully, our rules can be maintained intact. But it is imperative we do the will of the American people, which is move toward the confirmation of the President's judicial nominees as required by the Constitution of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Virginia.

#### ISSUES CONFRONTING THE SENATE

Mr. ALLEN. Mr. President, I rise to share with my colleagues my observations and urgings on two issues: One, following on the eloquent remarks of the Senator from Georgia, SAXBY CHAMBLISS, on the importance of judges and actions in the Senate; and the second has to do with our National Guard and Reserves who are being called up for duty and what the Federal Government can do to be helpful to them.

#### JUDGES

First, on judges, I look at four pillars as being essential for a free and just society: freedom of religion, freedom of expression, private ownership of property, and fourth, the rule of law. The rule of law is where judges come in, where you have fair adjudication of disputes, as well as the protection of our God-given rights.

It is absolutely essential we have judges on the bench at the Federal level, and at all levels, who understand their role is to adjudicate disputes, to apply the facts and evidence of the case to the laws, laws made by elected Representatives. We are a representative democracy. That means the judges ought to apply the law, not invent the law, not serve as a superlegislature, not to use their own opinions as to what the law should be but rather apply it. That is absolutely essential for the rule of law, for the credibility and stability one would want to be able to rely on in our representative democracy for investments and, as we advance freedom, to try to have the people of other countries around the world put into place these four pillars of a free and just society.

What we have seen is a break of precedent in the Senate. For 200 years

judicial nominees from the President, when they were put forward, were examined by the Judiciary Committee very closely, as they should be, as to their temperament, philosophy, and scholarship. If they received a favorable recommendation from the committee, they would come to the floor and Senators would vote for them or against them. In the last 2 or 3 years, what we have seen is unprecedented obstruction, a requirement, in effect, of a 60-vote margin for judges, particularly at the appellate level. The most egregious in recent years, in my view, was Miguel Estrada. He is an outstanding individual, completely qualified—great scholarship, great experience—a modern-day Horatio Alger story, having come to this country from Central America, applying himself, doing well. Indeed, the American Bar Association unanimously gave him their highest recommendation and endorsement.

That went on for a year. Then it went on for another year. It went on for over 2 years, and he finally had to withdraw, notwithstanding the fact that a vast majority of Senators were actually for Miguel Estrada.

It is not unique to him. It has happened to roughly 10 or so appellate judges, including those nominated for the Ninth Circuit, which is the circuit where you have adventurous, activist judges who ignore the will of the people. For example, the recitation of the Pledge of Allegiance in schools, which they struck down because they are concerned about the words "under God." That is the sort of activist judiciary that is ignoring the will of the people, who are the owners of this Government.

People say: What do we need to do, and they up come with this term, "nuclear option." It is a constitutional option. It shows how out of touch people are in calling this a nuclear option, when all it is is the question of whether it is a majority vote to give advice and consent or to dissent on a particular judicial nomination. It is my view, in the event the minority party continues with the approach of obstructing the opportunity of a nominee to have fair consideration, then this constitutional option must be utilized. We should not be timid. We should not cower. I believe the obstructionist approaches are preventing me from exercising my duty and responsibility to the people of the Commonwealth of Virginia to advise and consent on these judicial nominations. I hope my colleagues will not continue this obstructionist approach. In the event they do, then we have to use the constitutional option. I do not think it is too much to ask Senators to get off their haunches and show the backbone or spine to vote yes or no, but vote, and then explain to their constituents why they voted the way they did on any particular man or woman who has been nominated to a particular judicial position.

I am hopeful we do not have to use it, but if we do, go for it. Do not cower. Do

not be timid. The people, as my colleague from Georgia said, all across this country, whether they are down in Cajun country in Louisiana, whether they are in Florida, whether they are in the Black Hills of South Dakota, or whether they are in the Shenandoah Valley of Virginia, expect action on judges. As much as people care about less taxation and energy security for this country and wanting us to be leaders in innovation, they really expect the Senate to act on judges. It is a values issue. It is a good government issue. It is a responsibility-in-governing issue that needs to be addressed.

AMENDMENT NO. 356

I would like to turn my attention to the amendment pending on the supplemental, one submitted by Senators DURBIN, MIKULSKI, and me. This amendment will eliminate the pay gap that many of our Federal employees who serve in either the National Guard or the Reserves suffer when they are called up for active duty. We need to do everything we can within reason to recruit and retain those who serve in the Guard and Reserves. We, as a Federal Government, and I, as a Senator, encourage private businesses to make up that pay gap.

Many times, when people get called up, their Active-Duty pay is less than they would be getting in the primary job. That is what the pay gap is. It is one of the key factors, top five factors in people not re-upping. It does have an impact on their families. On average, the pay-gap loss is about \$368 a month. They still have housing payments, they still have food. Many of those who serve in the Guard and Reserve have families, and those expenses go on.

Out of the 1.2 million members of the National Guard and Reserves, 120,000 are also employees of the Federal Government. As of January 2005, 43,000 Federal employees have been activated since September 11, 2001, and are serving courageously and beneficially for our freedom and our security. Right now there are more than 17,000 on active duty.

There are those firms in the private sector who have made up this pay gap. There are over 900 companies, such as IBM, Sears, General Motors, UPS, Ford, that make up the pay differential. In fact, 23 States have enacted similar legislation to make up the pay difference. I am proud to say one of them is the Commonwealth of Virginia.

The Senate has supported this in the past. I think it makes a great deal of sense that we support not only the members of the Guard and Reserves who are called up to active duty who serve in the Federal Government, but also support their families. I think this amendment, which I am sponsoring along with Senators DURBIN and MIKULSKI, makes a great deal of sense. It is one I hope, when we get to voting on it sometime today, will enjoy the support of all the Members of the Senate. It is very important we do what we can, within reason, to help in the re-

cruitment and retention of those who are serving our country, who are disrupting their lives and, in fact, are being called up more frequently and for longer duration than ever before.

I hope we will see that agreed to on the supplemental some time today. I also hope we will get back to the 200-year history of the Senate on consideration, treatment, and actual voting on outstanding judicial nominees who have come out of the Judiciary Committee with a favorable recommendation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, am I correct that we are in morning business and it is appropriate to address the Senate in morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business. The minority side controls 30 minutes. The Senator is recognized.

#### THE NOMINATION PROCESS

Mr. NELSON of Florida. Mr. President, yesterday it live the nomination and confirmation process as envisioned by our Constitution with regard to two nominees. The Constitution, of course, provides that it is a two-step process: the President nominates and the Senate then confirms or rejects. In this case, there was quite a contrast between the two nominees.

In one of my committees, the Foreign Relations Committee, we have a highly contentious, highly divisive debate raging over the nominee of the President, Mr. John Bolton, to be the Permanent Representative of the United States to the United Nations. It is a very significant post representing the wishes of the American people, of the U.S. Government, to the world body, the United Nations.

While at the same time those confirmation hearings were occurring in the Senate Foreign Relations Committee, another one of my committees, the Commerce Committee, was considering the nomination of Dr. Michael Griffin to be administrator of NASA. Dr. Griffin's nomination is quite a contrast to Mr. Bolton's nomination, for it is embraced almost unanimously in a bipartisan way. The extraordinary support is shown even to the point that the chair of the Science and Space Subcommittee, Senator HUTCHISON of Texas, and I, the ranking member of that subcommittee, both requested that the chairman of the full committee, Senator STEVENS, accelerate the confirmation process. So that Dr. Griffin could be confirmed by the committee and we could get his nomination to the floor of the Senate this week, putting him in place as the administrator next Monday. NASA desperately needs to have a strong leader in place, particularly as we recover from the disaster to Columbia. We are also going to launch an expected flight for recovery somewhere about the mid-

dle of May. That is the contrast between two nominees.

I think one of the things that makes Dr. Griffin so attractive as the head of NASA is not only that he is literally a rocket scientist with six graduate degrees. Not only does he have exceptional experience in the Nation's space program, both the manned and unmanned programs, but he carries with him a demeanor that contains an element of humility, which will serve him well in the NASA family. NASA is a family. We have seen that borne out in the history of our space program in times of tragedy as we have had in the past. The NASA family comes together, and in times of triumph not only with the extraordinary space accomplishments we have had, but in times of extraordinary triumph where in fact it has been said that failure is not an option. The extraordinary success we had with Apollo 13 in which we thought we had three dead men on the way to the Moon when the Apollo module blew up, and how in real time people in a simulator back in Houston, people in mission control, the design engineers—all came together to figure out the fix. Since the main propulsion system had blown up, rapidly losing electricity, and how to design the circumstances which in a trajectory towards outer space they could get back home safely to Earth. And they did that.

That is another illustration of how the NASA family works when it comes together. It wants a leader who has an appreciation of that family, who knows something about the business of that family, and who in fact can comport themselves with humility.

Interestingly, this is a contrast to the other nomination being considered at the same time, on the very same day, in another one of my committees. This is a controversial nomination because of the alleged improprieties which stem not from a sense of humility but from a sense of entitlement, even bordering on arrogance in demanding one's way. Not one's personal beliefs and ideology—we can all debate those because those are differences of issues. But in this particular case, Mr. Bolton is alleged to have berated intelligence analysts and, according to the allegations from some former very high-ranking State Department officials, insisting that they be fired, dismissed, or transferred because their analysis of the intelligence differed with his. Contrast the personalities, the nominee to be NASA administrator and the nominee to be the U.S. Representative to the U.N., contrast of styles, contrast of attitudes, and contrast of capabilities. Thus, it leads to extraordinary differences in the nomination process.

I wish all of the nominations were as Dr. Griffin in NASA, except for one hiccup that I think we are taking care of with the junior Senator from Virginia. It is my hope that today Chairman STEVENS will call the committee, that

we will vote Dr. Griffin out of the Commerce Committee and get his nomination to the floor. At least by tomorrow, so his name can be sent, confirmed, and the President can go ahead and swear him in.

#### INFORMATION DATA BROKERS

If that were not enough to engage one Senator from the State of Florida in activities, we also saw yesterday a day that started to bring out new revelations on a completely different subject. This time we found from the wire reports that the number of names which had been thought to have been missing or stolen from an information data broker, namely one located in my State, a company called Seisint in Boca Raton, FL, owned by LexisNexis. The company is owned by an international conglomerate located in France, which a month ago announced that 30,000 names were missing—that is 30,000 names and Social Security numbers, and who knows how much other sensitive information. These records are compiled in this company for many law enforcement agencies. We were told yesterday the number is now not 30,000, it is 10 times that; it is over 300,000.

This is one of a series of five or six revelations in the last 2 months of information. Data brokers trade and sell this information about us—information that normally we would be so careful in seeing that it's secured and locked up or shredded so somebody can't get that information and go out and steal our identity. We now find these information brokers—in one case called ChoicePoint—have 12 billion records; they have records on virtually every American.

We have seen over the last couple of months a series of these stories where the information is suddenly missing, or they found that somebody hoodwinked them and bought their information under false pretenses. It is now out in the public domain in somebody else's hands.

Members of the Senate, if we don't do something about this, none of us in America will have any privacy left because our personal identities will be taken from us.

I hope Senators have had an opportunity to experience what I have in talking with victims of identification theft. One of the biggest complaints, aside from the harassment and the financial losses, is they can't get their identity back. They do not know where to go. They go to their local law enforcement. We can't help you. They go to their State agencies. We can't help you. They go here, they go there, and they keep getting referred to somebody else, and all the while somebody else has their identity. Maybe they are put on the watch list, or the do-not-fly list, or suddenly they are getting dinged for \$25,000 charges on a credit card, or their driver's license—such as the truck driver's license in Florida which gives the privilege of driving vehicles loaded with hazardous materials. Guess what that would do in the wrong hands.

We find, if we don't do something, that none of us will have any privacy left. It used to be in the old days that we were careful to shred our records, or keep them locked up. Now we know all of this private, personal, and financial information is in the hands of information brokers who have it on computer—billions of bits of information. They are trading it and selling it and buying it. There is something we can do about it. I suggested one way a month ago when I offered a bill that has been referred to the Commerce Committee. Today, Senator SCHUMER of New York and I have taken a number of bills, including mine and his, and we have put them together into a comprehensive package. The bill is being referred to the Commerce Committee, and it is my hope we will get the Senate to start moving on this. As we speak, the Judiciary Committee is having a hearing on this very subject. It is my hope we will get some action so we can protect the personal identity of every American.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

#### NUCLEAR OPTION

Mrs. MURRAY. Mr. President, I imagine that recently it has been pretty difficult to wake up every morning to read the newspaper if you are a Federal judge. Extremists in and out of Washington, DC, have nearly declared war on the judiciary, from demanding retribution for recent decisions that lawmakers disagree with to suggesting impeachment for judges who do not toe the party line. It is discouraging, it is disheartening, and it is downright wrong.

But what is so concerning about this recent rhetorical assault is it is being backed by action that has nothing to do with judges and everything to do with increasing Republican power at the expense of our Constitution.

I am deeply concerned that Republicans are trying to increase their power by ignoring rules dating to our country's founding. They want to push through radical judicial nominees who will serve a lifetime on the bench by eliminating a 200-year-old American rule allowing each Member in the Senate to speak out on behalf of our constituents and to fight for the ideals we hold dear.

We had an election last year, and it is true, Republicans ended up with a majority in this body. But that does not mean half the country lost its voice. That does not mean tens of millions of Americans will have no say in our democracy. That does not mean Republicans have carte blanche to pack the courts and to ignore the rights of the minority.

In reality, this is not about judges. This is not about a Senate procedural change. This is, plainly and simply, a power grab and an effort to dismantle the checks and balances our Founding Fathers created. Without that system,

the Senate would simply become a rubberstamp for the President. It would allow whichever political party is in power, Republican or Democrat, to have the say over our Nation's courts. I will not stand for that.

This is a basic argument about the future of the Senate. It is about how we are going to conduct our business. I believe in giving the people a voice, in standing up for those people who sent me here, and in protecting the rights of minorities everywhere.

One of the first things every child is taught about American Government is the separation of the three branches. This separation and the checks and balances that come with it are fundamental to the greatest system of government ever created. This system is worth protecting. That is exactly what many of my colleagues and I intend to do.

This is not a debate about judicial nominations. It is about increasing the amount of power that is wielded by the majority. We hear a lot about judges in the Senate, so let me put that discussion in context for a minute.

The judges who serve on the Federal bench affect the lives and liberties of every American. These are lifetime appointments. This is not the nomination to a commission or nomination to an ambassadorship; this is a lifetime appointment for a Federal judge whose rulings over the next 30 or 40 or more years will have ramifications for every single American.

As Senators, we are elected to serve our constituents. We are asked to confirm judges whose decisions can change U.S. history and shape the lives of American people for generations to come.

When any citizen, Republican or Democrat, in a blue State or a red State, a man or a woman, no matter what race, color, or creed, comes before a judge, we have a responsibility to ensure they will get a fair shake. That citizen, no matter who or where they are, must know our system will work for them. They have to have confidence in that.

How can we make those assurances to each and every Senator, Republican or Democrat, red or blue State, man or woman, no matter what race, color or creed, if Republicans alone are selecting, considering, and confirming them to the courts? I don't believe we can.

In addition, we expect Federal judges to provide the proper check in our system of checks and balances outlined in our Constitution. Without it, our system does not function properly. We have to ensure each and every nominee for the courts has sufficient experience to sit in judgment of our fellow citizens. We have to ensure every nominee will be fair to everyone who comes before their court. We have to ensure every nominee will be evenhanded in administering justice, and we have to ensure every nominee will protect the rights and the liberties of each and every American.

To determine if a nominee meets those standards, we have to explore their record, we have to ask them questions, we need to weigh their responses. That is a tremendous responsibility of each and every Senator. It is one I take very seriously.

In the Senate we have made a lot of progress in confirming the judges President Bush has nominated. Look at the figures. The Senate has now confirmed 205 judicial nominees of President Bush. In 3 years we have stopped 10 of those whose records raised the highest questions about their abilities to meet the standard of fairness every American expects. Let me repeat that: We have confirmed 205 judicial nominees. That is a confirmation of 95 percent. We have confirmed 205 judges, the best confirmation rate since President Reagan. Today, 95 percent of Federal judicial seats are filled. This is the lowest number of vacancies in 13 years. There are now more Federal judges than ever before.

I have to point out while the majority is complaining today about our confirmation rate, it was a different story during the Clinton administration. Back then, Republicans used many roadblocks to stop or block the confirmation of judges who were nominated by President Clinton. During Clinton's second term, 175 of his nominees were confirmed and 55 were blocked from getting votes. During those years, the majority used the committee process to ensure nominees they disagreed with never came to a vote in the Senate and 55 never received consideration.

The Senate has an impressive record of confirming judges. That is clear in the 98-percent confirmation rate, the 95 percent of Federal judicial seats that are filled, and today the lowest number of vacancies in 13 years.

I will talk about the process we have used in my home State of Washington to confirm judges. We have worked out a system to ensure that Washington judges are nominated and confirmed even when different political parties hold Senate seats or control the White House. For many years I worked with a Republican Senator and a Democratic President to nominate and confirm Federal judges from my State. Today, with a Republican President I am working with my colleague from Washington State on a bipartisan process to recommend judicial candidates. We developed a bipartisan commission process that forwards names to the White House. It has worked very well. Both sides had equal representation on the commission. The commission interviews and vets the candidates.

It worked for Senator Gorton and me when we forwarded names to President Clinton and it is working well for Senator Maria Cantwell and me as we recommend names to President Bush. I am very proud that during President Bush's first term we worked together to confirm five excellent judges through this bipartisan commission.

We, in fact, confirmed Ron Leighton, a distinguished trial lawyer in Tacoma who is now a U.S. district court judge for the western district of Washington in Tacoma.

We confirmed Lonny Suko as a district court judge for the eastern district of my State. He is a distinguished lawyer and a U.S. magistrate judge who has earned the respect of many in his work on some of eastern Washington's most difficult cases.

We also confirmed Judge Ricardo Martinez for a vacancy on the U.S. district court for the western district of Washington State. He, in fact, holds the distinction of becoming the first Latino district judge in the history of our State. For over 5 years he has served as magistrate judge for the U.S. District Court in the western district. Before that, he was a superior court judge for 8 years and a King County prosecutor for 10 years. I will never forget calling him from the Senate floor after we completed his vote on the confirmation. I could hear the cheers in the background from a truly overjoyed, deserving family.

Also during the first term we confirmed Judges Richard Tallman and James Robart. Both of them are now serving lifetime appointments with dignity.

In Washington State, we are making genuine bipartisan progress confirming judges. It is a process that serves the people of my home State well. Our record of bipartisanship makes this current Republican power grab all the more outrageous. The record proves it is not about judges at all. This procedure is about destroying the checks and balances our Founding Fathers created to prevent the abuse of Governmental power and to protect the rights and freedoms of all Americans. Now we are hearing the Republicans want to destroy the independence in Federal judges by rewriting the rules so they can ram through appointment of Federal judges, especially a Supreme Court Justice, who will overreach and roll back the rights of American people.

Recent comments by advocates on the other side and even by some elected officials have left me very worried about the future of the independent judiciary. It seems many in this country are intent on running roughshod over the Constitution, bent on misusing their power to destroy fundamental principles of our great democracy. That is not how America works. It is not what our Founding Fathers intended. In our democracy, no single person and no single political party may impose extreme views on the Nation. The constitutional system of checks and balances was set up for a reason. It has worked for two centuries. There is no reason to destroy this fundamental principle now.

My colleagues and I are standing up to these abuses. We are fighting to protect the historic power of this body to make sure it is not a rubberstamp for sectarian, partisan, special interests. We will continue to do so.

I yield back the remainder of the time on this side and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, I rise today to urge my colleagues to think about the implications of what has been called the nuclear option and what effect that might have on this Chamber and on this country. I urge all of us to think not just about winning every debate but about protecting free and democratic debate.

During my Senate campaign, I had the privilege and opportunity to meet Americans from all walks of life and both ends of the political spectrum. They told me about their lives, about their hopes, about the issues that matter to them, and they also told me what they think about Washington.

Because my colleagues have heard it themselves, I know it will not surprise many of them to learn that a lot of people do not think much gets done around here on issues about which they care the most. They think the atmosphere has become too partisan, the arguments have become too nasty, and the political agendas have become too petty.

While I have not been here too long, I have noticed that partisan debate is sharp, and dissent is not always well received. Honest differences of opinion and principled compromise often seem to be the victim of a determination to score points against one's opponents.

But the American people sent us here to be their voice. They understand that those voices can at times become loud and argumentative, but they also hope we can disagree without being disagreeable. At the end of the day, they expect both parties to work together to get the people's business done.

What they do not expect is for one party, be it Republican or Democrat, to change the rules in the middle of the game so they can make all the decisions while the other party is told to sit down and keep quiet.

The American people want less partisanship in this town, but everyone in this Chamber knows that if the majority chooses to end the filibuster, if they choose to change the rules and put an end to democratic debate, then the fighting, the bitterness, and the gridlock will only get worse.

I understand that Republicans are getting a lot of pressure to do this from factions outside the Chamber, but we

need to rise above “the ends justify the means” mentality because we are here to answer to the people—all of the people, not just the ones who are wearing our particular party label.

The fact is that both parties have worked together to confirm 95 percent of this President’s judicial nominees. The Senate has accepted 205 of his 214 selections. In fact, we just confirmed another one of the President’s judges this week by a vote of 95 to 0. Overall, this is a better record than any President has had in the last 25 years. For a President who received 51 percent of the vote and a Senate Chamber made up of 55 percent of the President’s party, I would say that confirming 95 percent of their judicial nominations is a record to be proud of.

Again, I urge my Republican colleagues not to go through with changing these rules. In the long run, it is not a good result for either party. One day Democrats will be in the majority again, and this rule change will be no fairer to a Republican minority than it is to a Democratic minority.

I sense that talk of the nuclear option is more about power than about fairness. I believe some of my colleagues propose this rule change because they can get away with it rather than because they know it is good for our democracy.

Right now we are faced with rising gas prices, skyrocketing tuition costs, a record number of uninsured Americans, and some of the most serious national security threats we have ever had, while our bravest young men and women are risking their lives halfway around the world to keep us safe. These are challenges we all want to meet and problems we all want to solve, even if we do not always agree on how to do it. But if the right of free and open debate is taken away from the minority party and the millions of Americans who ask us to be their voice, I fear the partisan atmosphere in Washington will be poisoned to the point where no one will be able to agree on anything. That does not serve anybody’s best interest, and it certainly is not what the patriots who founded this democracy had in mind. We owe the people who sent us here more than that. We owe them much more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, if I am not mistaken, the pending business is the Durbin amendment which I offered yesterday.

The PRESIDING OFFICER. I have been informed the Senate has not laid down that measure yet.

Mr. DURBIN. I ask unanimous consent to be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 356 TO H.R. 1268

Mr. DURBIN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment: Senators KERRY, LANDRIEU, SARBANES, LEAHY, LINCOLN and LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, for those who are following the business of the Senate, after morning business we hope to move to closure of debate on my amendment. It is my understanding that Senator STEVENS is returning from the White House and would like to speak on the amendment, and we will have a formal unanimous consent request but it is my intent to protect his right to speak for up to 5 minutes and to protect my right to close for up to 5 minutes. Otherwise, our goal is to try to have a vote at 12:15 on this amendment. I say that even though there has not been a formal consent agreed to, but that is what the discussion leads to.

For those who are following this debate, this is an important bill that is before us. It is the supplemental appropriations bill. The President has come to Congress and asked for money to wage the war in Iraq and Afghanistan. What we find curious is that this amount is not being included in the President’s budget. In fact, he is arguing he is moving toward a balanced budget but fails to include the cost of the war.

It is my understanding, and I think I am close on this number, with this additional \$81 billion, we will have allocated and spent \$210 billion on the war in Iraq and Afghanistan. The President refuses to include this in his budget. If he did, we would have a much deeper deficit than currently stated.

Those of us who believe in at least honesty in accounting cannot understand why we are doing this separately. Why do we have a supplemental bill for this war in Iraq and Afghanistan when we are clearly going to be there for a period of time? I hope for a short period of time but at least for some period of time.

That budget argument aside, I will go to the merits of what we are discussing. The \$81 billion for the war in Iraq and Afghanistan is a figure that I will support. I was one of the Senators who joined my great friend and leader Senator ROBERT BYRD in voting against the resolution to authorize the President to use force in this war in Iraq.

Mr. BYRD. Right.

Mr. DURBIN. There were 23 of us on the Senate floor who did that. I believe it was the right vote not because I am making any excuses for Saddam Hussein, a tyrant, a dictator, a man I am glad is out of power, but many of us, particularly those of us sitting on the Intelligence Committee at the time,

felt there were representations being made to the American people about the nature of this threat that were just plain wrong.

I listened in the Intelligence Committee as they described the evidence of weapons of mass destruction and was puzzled. I could not understand the statements from the administration which were coming out about all of these weapons of mass destruction in Iraq that threatened us in the Middle East and around the world; the evidence was not there. The people that we needed on the ground to confirm the evidence were not there.

In addition, there was a lot of speculation about nuclear weapons that Saddam Hussein was developing with aluminum tubes to be used in centrifuges. As we listened to the agencies of our own Government in hot debate over whether or not these tubes had anything to do with nuclear weapons, I was puzzled as to how some of the leaders in this administration could be talking about mushroom clouds because Saddam Hussein is going to detonate a nuclear weapon. They talked about some connection between the terrible tragedy of 9/11 on America and Saddam Hussein, and yet there was no evidence—and there still is absolutely no evidence—connecting Saddam Hussein to that terrible tragedy that occurred on 9/11.

As this evidence accumulated, Senator BYRD, myself, and many others said the case that the administration is making for the invasion of Iraq is not there. The evidence is not there. I personally feel one of the worst things that can happen in a democracy is when the leadership of a democratic government misleads the American people into believing there is a threat that does not exist.

I am not arguing that they deliberately misled us. It could have been a sin of omission. I do not know the answer to that. But the fact is those of us who voted against the use of force had serious questions as to the justification for the war, and I might add serious questions about our readiness for that war. Trust me and other Senators, if we needed to call on any military force in the world to perform a mission, I want to dial 911 and find the United States on the other end of the line. We have the very best military in the world. I knew they would acquit themselves very well once the invasion was under way, and I knew they would be successful.

I could not predict how long it would take, and thank goodness it was short-lived. But the military aspects of the war and the success notwithstanding, it is clear that this administration was not prepared for waging the peace that followed. They were unprepared in terms of the number of men and women on the field, in terms of the equipment that is available, such as armor for humvees and body armor for soldiers. We were not prepared for it. Here we are, more than 2 years later in Iraq, in



a position where we need to stay and finish, and we are still arguing over the basics.

I visited Iraq 3 weeks ago, went there after first going to Kuwait and visiting with our troops. I met with the 1644th Illinois National Guard unit, a transport unit that moves humvees and trucks back and forth between Baghdad and Kuwait City every single day at great danger to the men and women driving those vehicles. The first thing they wanted to show me was: get in the truck, sit here and look how cramped it is as we sit here for hours and look around. There is no armored protection for us as we are driving back and forth through these dangerous zones. Two years after the invasion, we still do not have the adequate equipment that our troops need.

This bill will come before us, and I will support it. I had misgivings, and still do, about the initiation of the invasion of Iraq but I do not have any misgivings about providing our soldiers, our marines, our airmen and our sailors the very best equipment and all the resources they need to perform their mission and come home safely.

Look at some other aspect of this war that is equally important. This is a different war than we have ever waged. This is a war that depends on an American fighting force that is largely, or at least to a great extent, composed of men and women in the National Guard and Reserves. We have not done this before, but we have to do it now. Were it not for the 40 percent of the 157,000 or 160,000 men and women in Iraq from Guard and Reserve units, we would not be able to send our soldiers in the field to fight. Thank goodness those Guard and Reserve units are there.

Understand that unlike the Active-Duty military, the Guard and Reserve military come in under different personal and family circumstances. Here is a man or woman in a Guard unit in Illinois or virtually any State who signed up to serve his or her country looking for perhaps some scholarship assistance to go to school, ready to respond to a natural disaster or to be called up for a few weeks at a time, and they are being activated for lengthy periods, for a year to a year and a half and sometimes more. It is creating a terrible hardship for the families of these Guard and Reserve unit members.

The amendment that is pending before us is very basic. We have said to employers across America, if one of their employees is in the Guard or Reserve, and that employee is activated, do your best to stand behind that employee and his family; make certain, if they can, they keep their health insurance in place, if necessary; try to make up the differential in pay between what the military pays and what they were making in the private sector so that soldier who is off risking his life is not worried about the family back home.

And guess what. Almost 1,000 American businesses have stepped forward

and said: We accept the challenge. We believe in these men and women. We believe in America. We are going to stand behind them. So when they are activated, these companies step up, as well as units of local government, and make up the difference in pay, giving them the peace of mind to know that even though they are separated from their family while away overseas, they are going to have enough money coming in to make the mortgage payments, pay the utility bills, and all the basics of life.

When it comes to employers, there is one employer that does not meet that obligation; there is one employer in America, the largest single employer of Guard and Reserve soldiers in America, that refuses to make up the difference in pay. There is one employer in America which has said for 2 straight years now, We will not protect the Guard and Reserve soldiers' families while they are overseas fighting. There is one employer in America that coincidentally is praising all of these private-sector employers for standing behind their soldiers and yet refusing to cover their own employees. What is that employer? It is the United States Government. Our Federal Government refuses to make up the pay differential for activated Federal employees who go into the Guard and Reserve. It turns out that some 51 percent of those who are serving overseas today have seen a dramatic cutback in their pay. How can we have Web sites and speeches praising all of the employers across America, the businesses that stand behind their soldiers, while the Federal Government does not?

So for the third time since the invasion of Iraq, I am offering this amendment. It is called the Reservist Pay Security Act, and it says the Federal Government will meet the obligation private sector employers are meeting every day and make up the pay differential for Federal employees who go overseas in the Guard and Reserve. It is not a radical suggestion. It is a commonsense suggestion that we would stand behind these employees and soldiers as we ask others to do.

I see some of my other colleagues are in the Chamber, and I am going to yield the floor at this moment. We are hoping for a vote at around 12:15 or so, but we are going to accommodate the schedules of the Senators and try to ask for a unanimous consent.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1268 which the clerk will report.

The assistant journal clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Kerry amendment No. 333, to extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty.

Kerry amendment No. 334, to increase the military death gratuity to \$100,000, effective with respect to any deaths of members of the Armed Forces on active duty after October 7, 2001.

Durbin amendment No. 356, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished Senator from Massachusetts, Mr. KERRY, for not to exceed 10 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from West Virginia for his courtesy.

Mr. President, I ask unanimous consent to add Senator LAUTENBERG as a cosponsor to Senate amendment No. 333 and Senate amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 333 AND 334

Mr. KERRY. Mr. President, yesterday I introduced two amendments to help our military families to be able to contend with the death of a loved one and the problems that flow to these families when one of America's service people are lost either in combat or in the course of duty. The disruptions are obviously enormous and unimaginable in many ways, but one of those disruptions is that after a period of 180 days, even in the middle of a school year, a widow would have to move off the base notwithstanding the kids are in the middle of a school year. I can give the names of people I have met in a number of instances over the course of the last couple of years traveling the country, people who talked about the incredible disruption to their family because of this.

What we have learned listening to the commanders in the military and also to the families is that when we recruit, we are not just recruiting individual soldiers, and when we equip, we don't just equip by giving them the weapons and the technology they need to fight a war. We recognize we recruit a whole family and we retain a whole family. We need to have policies that are family thoughtful, family sensitive, so we can retain people in the military, particularly in a volunteer force where we expend enormous public dollars in order to train people to provide us with the superb capacity we have in our military.

One of my amendments would provide an extension of that 180-day period of time so you get a year for the school year issue and other issues of finding a suitable home and figuring out whether you are going to go back and live with your parents, what your job is going to be, and where you are going to live, so all of these things are not providing added pressure to families who are already remarkably disrupted.

The second is an amendment that would extend the death benefits, the total death benefits to families so those families who are unfortunate enough to lose a loved one are not suffering for the rest of their lives as a consequence of that contribution to their Nation.

These amendments would be the first strong steps in what I call the military families bill of rights. I am not going to go through all of the details and the arguments for that, but I would like to say to my colleagues that yesterday I sent out an e-mail asking Americans to send stories in about their personal struggles with these issues, or those of their friends and friends' families that they heard about.

In less than 24 hours over 2,000 families responded. They took the time out of their busy days in the hopes that we would listen, so I would like to share a few of those stories with my colleagues.

The first is a couple in Austin, TX, who e-mailed me about one of their two young children who has Job's syndrome. When their father was called to duty, Home Depot stopped paying his salary and cut his health insurance. His wife, who was a schoolteacher, had to purchase insurance on the open market, leaving her finances in complete disarray. Her daughter was in the hospital so often that she eventually used up all of her sick and vacation days. The school docked her pay for lost time, and her financial situation went from bad to worse.

This is because her husband was serving his country, but the Government did nothing for his family to make up that difference.

I got an e-mail from a pharmacist whose nurses were upset about a woman who could not afford medication for her child because her husband had been called to duty in Iraq. They eventually found a way to get the

mother the medication that her daughter needed, but the pharmacist was left questioning his Nation's leadership. Here is what he said:

I was dismayed that there apparently was no help available for this mother whose husband was serving his country.

A guy in Abilene, TX, e-mailed me about his first friend in the world who was shot down in Iraq. He left behind a wife and three children. Over 2,000 people honored him at the memorial service, but that did not do anything to help his parents, who were draining their retirement savings to get health insurance for their grandchildren. This fallen soldier's friend wrote:

Nathan's family is getting by because of their love and faith in God and each other, but after losing a son in service to America, they should not have to struggle to see that his wife and children will get by. His wife has already lost her husband, and his children will already grow up without their father. His daughter Courtney will not have her Dad to walk her down the aisle when she marries. They will not have a Dad at their High School graduations or at the birth of their children. They should not have to sacrifice anymore.

That is what this friend wrote to us, all of us Senators. Finally, I want to share a letter I received in February from Amy Beth Moore from Fort Hood, TX. Her two children, Meghan, age 13, and Sean, age 10, no longer have their father Jim. During his tour in Iraq, Jim was shot at, and his Hummer took a near deadly bullet in the gas tank. When he returned home, he was a senior officer in charge of refitting his unit for the next deployment. This required frequent helicopter flights back and forth from Texarkana.

On November 29, 2004, his Blackhawk crashed, killing Jim and six other soldiers. Listen to what Amy wrote:

Consider our predicament. But for the grace of God, my husband would not have survived a deployment to Iraq and then was working to ready the Fourth Infantry Division for its next deployment. Why should it matter where he was killed while serving proudly in the military? Why should we as his surviving wife and children not be entitled to the increased death gratuity and life insurance? I have been a full time mom, managing the home front of a career soldier and it is now up to me as a widow and a single parent to provide for our children. These benefits would greatly assist me in doing that and frankly, without them, we will have a serious challenge in the days and months and years ahead without Jim. I know that compensation in any form will in no way make up for the loss of a loved husband and father and all the missed moments that we would have shared as a family, but nothing is more important to me right now than trying to take care of my children, and it is on their behalf that I make this request.

We have heard from military families. We have heard from friends. There are thousands more such stories across the Nation. The test is whether we, as a matter of conscience and common sense, are going to do what is right for those who serve our country.

I thank the Appropriations Committee for fixing part of this, for going beyond the administration's request to

limit the benefit to combat. But now I ask my colleagues to heed the advice of our uniformed military leaders about those on active duty today and their families in the military. We need to provide this benefit to all Active-Duty personnel.

Amy Beth Moore is right. What difference does it make where he was killed? He was killed preparing the troops to do what we need to do in Iraq, and his loss is as real whether he was killed in Iraq or elsewhere. If we fail to adopt these amendments we are going to confirm the greatest fears of Amy Beth Moore and the over 2,000 Americans who e-mailed their stories to me, that Washington talks a good game but doesn't really care about these families.

For the survivors of our Nation's fallen heroes, much of life remains. Although no one can ever put a price on the loss of the life of any loved one, it is up to us to try to be generous, and I think correct, in helping them to put their lives back together. I urge my colleagues to join me in working toward a strong bipartisan military families bill of rights that does right by those who serve and by their families. I hope we can start that by taking the right direction in adopting these two important amendments today.

I thank the distinguished Senator from West Virginia again for his courtesy.

I ask unanimous consent to add Senator DURBIN as a cosponsor.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask if the Senator will add my name as a cosponsor to both amendments.

Mr. KERRY. I am honored to have the Senator from West Virginia as a cosponsor.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. Madam President, the bill before us contains funding for a number of items that can hardly be described as emergencies, despite the fact that they are contained in an emergency supplemental funding bill.

One of those items that fairly leaps off the page is a \$36 million earmark, tucked away in the report under military construction for the Army, to build a new, permanent prison at Guantanamo, Cuba. Why is this tucked away as an emergency? It is to house detainees from the war on terrorism.

What struck me about this item is that the American people are being asked to build a permanent prison to house 220 prisoners from the war on terrorism when the courts have not yet determined the legal status of the detainees or whether the United States can continue to hold these individuals indefinitely without charging them with a crime.

We are walking on thin ice here—thin ice. If ever there was a case of putting the cart before the horse, this seems to be it. Construction of a new

permanent prison in Guantanamo assumes that the United States has in place a solid policy and a valid requirement for the long term internment of detainees at that site when in fact neither the policy nor the requirement has been validated.

Ever since the Supreme Court ruled last year that U.S. law applied to Guantanamo, and that prisoners held there could challenge their detentions in Federal Court, the status of the detainees at Guantanamo has been a matter of open debate. A flurry—we have reached beautiful spring weather now, but a flurry of subsequent legal challenges mixed with allegations of prisoner abuse have only muddied the waters further.

In August, a Federal district judge ruled that the military tribunals being conducted at Guantanamo must be halted because they did not provide minimally fair procedures and violated international law. Hey, look out here. Look what we are doing. Where are we going? Meanwhile, another Federal judge recently stopped the Government from transferring detainees from Guantanamo to other countries pending a review of the process.

What is wrong with that? At the heart of the Guantanamo detention controversy is whether the detainees are entitled to prisoner of war status under the 1949 Geneva Convention, or are they, as the administration contends, “enemy combatants” who are entitled to no judicial oversight. It is a complex legal debate that is unlikely to be resolved anytime soon.

And yet the White House has determined that the construction of a \$36 million maximum security prison at Guantanamo is such an urgent requirement that it cannot allow the courts to rule on the validity of the administration’s detainee policy or even wait for the regular appropriations process. Not even wait for the regular bill—put it in the supplemental.

This despite the fact that there is currently no overcrowding at Guantanamo, that the prison population is steadily declining—down to approximately 540 from a high of about 750—and that the Pentagon has already built a \$16 million, permanent, state-of-the-art maximum security prison at Guantanamo to hold 100 prisoners. At the same time, according to an article last month in *The New York Times*, the Defense Department is trying to enlist the aid of the State Department and other agencies to transfer more prisoners out of Guantanamo, in an effort to cut by more than half the current population at Guantanamo.

The fact is, the Pentagon has no idea at this point how many detainees from the war on terrorism are facing long term detention, or where they will eventually end up.

As Defense Secretary Donald Rumsfeld put it at a hearing before the Senate Appropriations Committee in February, “The Department of Defense would prefer not to have the responsibility for any detainees.”

For once, I agree with Secretary Rumsfeld, particularly given the allegations of abuse that have dogged the Defense Department’s treatment of detainees in Iraq and Afghanistan as well as Guantanamo. The Defense Department should not automatically assume an open-ended burden of being the world’s jailer of foreign enemy combatants.

Given all the uncertainties concerning the future requirements for detention facilities at Guantanamo, where—oh where, tell me—is the urgency in this request? The Defense Department insists that prisoners currently in custody at Guantanamo are in conditions that are safe, secure, and humane. The current detention facilities at Guantanamo include Camp 4, where detainees live in 10-man bays with nearly all-day access to exercise yards and other recreational privileges; Camp 1, where detainees are housed in individual cells with a toilet and sink in each cell; and Camp 5, the new 100-bed maximum security prison that the Pentagon boasts would be envied by many States. Camp Delta also boasts a 19-bed detainee hospital, which military officials describe as a state-of-the-art facility, complete with first-rate dental care.

With the exception of the existing maximum security prison, these are temporary facilities, but according to the Defense Department, they are designed to provide safe, secure, and humane housing for the prisoners. As the Pentagon is quick to point out, the concrete slab and open-air chain-link enclosures that originally housed prisoners when the Guantanamo detention facilities opened in January of 2002 are long gone.

The Defense Department, in its justification for the new prison, asserts that the existing temporary facilities are nearing the end of their useful life, will not meet Geneva Convention requirements, and will be subject to continued scrutiny by the International Committee of the Red Cross, the ICRC, until facility standards are raised.

Playing the Geneva Convention card is a curious tactic coming from an administration that selectively cherry-picks which of the Geneva Convention standards it chooses to apply to the prisoners at Guantanamo. The only Geneva Convention requirements cited by the Defense Department in its justification for the new prison are that housing units and core functions should be contiguous and allow for communal conditions where practical—certainly nice-to-have amenities but hardly a core requirement for the humane treatment of prisoners.

In fact, the ICRC’s main concern about Guantanamo, according to the organization’s website, is not contiguous detention units but the fact that the administration has attempted to place the detainees in Guantanamo beyond the law. Building a new prison will not address that concern, and it will not exempt the Guantanamo de-

tion center from the watchful eyes of the Red Cross. Nor will allegations of mistreatment of prisoners at Guantanamo be resolved by trading one set of cell blocks for another.

There may indeed be advantages to moving more Guantanamo prisoners from temporary into permanent detention facilities, but until we have a clearer picture of the number of prisoners who will be housed there over the long term, there is no compelling reason to rush into spending \$36 million of your money—it is your money—the taxpayers’ dollars to build a prison based on guesstimates instead of facts.

At a hearing of the Senate Armed Services Committee last month, Gen Bantz Craddock, Commander of the U.S. Southern Command, which oversees Guantanamo, was asked what the Pentagon was doing to improve the quality of life for the U.S. military personnel assigned to Guantanamo. General Craddock replied that he had submitted a list of unfunded requirements of several million dollars for U.S. military facilities. But, he continued, “we are watching this closely because we don’t want to get out in front of the policy with regard to the long-term detainee issue down there.”

That is good advice from General Craddock, and I would suggest that we apply it to the detention facilities at Guantanamo as well. It is the policy that should drive the construction, not the other way around. Before we ask the American taxpayers—before we ask you, the people out there who are watching the Senate Chamber here with open eyes, with open ears and probably with open mouths, you, it is your money—before we ask you, the American taxpayers to spend \$36 million to build a brand new permanent prison for foreign detainees at Guantanamo we should make sure that we have an ironclad requirement for that prison. Until the courts have resolved the legal status of the prisoners and until the Department of Defense and the administration determine the role of the department in the long-term detention of the prisoners, building a permanent maximum security prison at Guantanamo is premature.

Madam President, are there any pending amendments ahead of this amendment?

The PRESIDING OFFICER. There are amendments pending.

Mr. BYRD. I will take my amendment in the order in which the amendment has been called up.

I ask unanimous consent ahead of time if it may be in order to have the yeas and nays on my amendment, even though it won’t be voted on at this moment.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

AMENDMENT NO. 367

Mr. BYRD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 367.

Mr. BYRD. Madam 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 reduce by \$36,000,000 the amount appropriated for "Military Construction, Army", with the amount of the reduction to be allocated to funds available under that heading for the Camp 6 Detention Facility at Guantanamo Bay, Cuba)

On page 169, line 13, strike "\$897,191,000" and insert "\$861,191,000".

Mr. BYRD. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, for the information of all Senators, we are preparing to seek unanimous consent that we have a series of three votes that will begin at 1:45 p.m. today. These will be on or in relation to the Durbin amendment and the two Kerry amendments which are pending before the Senate. We hope to be able to reach agreement on this consent request so Senators can be advised very soon that that will be the order of the Senate.

That still leaves, of course, the amendment of the Senator from West Virginia which we will have an opportunity to discuss separate and apart from these three that will be voted on. Then we will seek to deal with that amendment in the regular order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I am pleased to advise the Senate that we have been able to reach agreement on a series of votes that will occur at 1:45. I am authorized by the leadership on both sides to propound this unanimous consent request.

I ask unanimous consent at 1:45 p.m. today the Senate proceed to a series of votes in relation to the following amendments: Durbin No. 356; Kerry No. 333; Kerry No. 334; provided further that no amendments be in order to these amendments prior to the votes,

and that prior to the Durbin vote Senator STEVENS and Senator DURBIN be allocated 5 minutes each to speak; further, that there be 2 minutes equally divided for debate prior to each vote; finally, that all votes after the first be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, I appreciate the cooperation of all Senators in getting this agreement. Senator BYRD has offered an amendment on which the yeas and nays have been ordered, but we will not vote on that amendment until others who wish to speak on the amendment have an opportunity to do so. That will occur at any time. If we do complete debate on the Byrd amendment prior to 1:45, that could be something we could consider adding, but at this point we are not prepared to make that announcement.

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. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, imagine how nervous you would be if I told you as we go about our business in the Senate, hidden in the Capitol basement were over 500 tons of some of the deadliest material ever conceived by man, VX nerve gas. Suppose I told you it had been there for decades, and although the authorities had previously promised to safely destroy some toxins, they were now changing their tune. They had put their plans to dispose of these deadly weapons on hold, leaving you to babysit them. I imagine you would start to feel a little nervous. Now you know how the residents of Madison County, KY, feel. For the people of Madison County, KY, and all over central Kentucky, the fear I have described is a daily reality.

The Blue Grass Army Depot in Madison County contains 523 tons of our Nation's chemical weapons stockpile. Since the 1940s, it has stored mustard gas, sarin nerve agent, and VX nerve agent. Each of these is among the deadliest nerve agents ever created. As little as 10 milligrams of VX is enough to kill a human being. That is about the mass of 10 grains of sand. It is virtually undetectable to the naked eye, and yet if that tiny amount is inhaled, death is imminent. If it is absorbed through the skin, death takes mere minutes.

The time has come for the safety of our fellow Kentuckians to safely eliminate these heinous weapons.

The Department of Defense has agreed it is time for the weapons to go. They promised they would dispose of them. Congress has appropriated hundreds of millions of dollars for them to safely destroy the materials. Yet the Department refuses to take the necessary steps to accomplish the task.

The Department has offered all sorts of reasons why, many of which even contradict each other. But the bottom line is, they refuse to spend the money the President requested and the Congress appropriated to dispose of these chemical weapons stored in Kentucky.

This Congress cannot and will not let them get away with it. The Department's foot dragging on eliminating these weapons is simply unacceptable. The best they claim they can do is to place the Blue Grass Army Depot on caretaker status, meaning that virtually no cleanup action will be taken. The Department's own studies have shown the longer we sit on these dangerous weapons, the greater the risk to surrounding communities. The Department of Defense needs to fulfill its obligations, and it needs to clean up these sites now—not some other time, now.

In 1996, I authored legislative language that created the Assembled Chemical Weapons Alternatives Program, also known as ACWA, to find the best method to destroy VX and other deadly agents. The Blue Grass Army Depot became one of the ACWA sites, along with a site in Pueblo, CO.

The DOD refuses to clean up that site in Colorado also, and so my friend Senator WAYNE ALLARD knows this issue well. I thank him for his steadfast involvement and leadership on this question. He feels as strongly as I do that the dangerous substances located at the hearts of our States need to be disposed of safely and quickly.

The Department claims ACWA sites must be downgraded to caretaker status because they are over budget due to cost overruns. Yet the Department's own schizophrenic decisionmaking is what led to these costs. The Department has repeatedly stopped or slowed down design work and then restarted, adding unnecessary startup and stop-work costs. They stingily parcel out appropriated monies in such small quantities that it is impossible to spend it efficiently. Thus, it is the Department's own bureaucratic mismanagement that has created the cost problems.

Perhaps we should expect no less from an outfit whose operating maxim is printed on this board behind me. Dr. Dale Klein, the Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs, admitted in his testimony last week before the House Armed Services Committee that, as he said:

As I often tell people, some of our budgeting processes are accurate but incorrect.

Let me run that by you one more time. He said:

As I often tell people, some of our budgeting processes are accurate but incorrect.

What nonsense. Can you believe that? Dr. Klein, speaking of the Department of Defense, said on the record:

. . . some of our budgeting processes are accurate but incorrect.

I will leave it to someone else to figure out exactly what that means, but it

does not fill me with confidence in the Department's ability to resolve this issue. The Congress must pursue this matter if we ever want to see positive results. Therefore, I have authored a provision, section 1115, in this bill before us, the supplemental appropriation bill, that expressly directs DOD to spend the money Congress has appropriated to dispose of chemical weapons at the Blue Grass Army Depot, which is in Kentucky, and the Pueblo Chemical Depot, which is in Colorado. It forbids them, absolutely forbids them, from shunting that money into any other purpose.

Let me be clear: This provision does not add a penny of new spending to this bill. It merely requires the Department to spend the money they requested for the purposes they identified.

DOD has broken its word to the citizens of Madison County. But the language I have authored will force the Department to get Blue Grass back on track, and I promise that prediction will prove both accurate and correct. My provision will guarantee that the \$813.4 million in prior-year monies that has been budgeted for ACWA sites will not be transferred for other purposes.

Over the past several years, the President has requested specific funds for ACWA. For reasons of comity, Congress has provided these funds for the overall chemical demilitarization program largely in lump sums, trusting that DOD would comply with the President's budget request. But they have not. Instead, DOD undermined the President's budget request and diverted funds intended for the ACWA Program. This language will hold the Department to the President's budget request with respect to this program.

My provision will force DOD to obligate at least \$100 million at the ACWA sites within 120 days of the enactment of this legislation before us. Because the Department has purposely—purposely—withdrawn funds from the ACWA sites and downgraded them to caretaker status, work has come to a virtual halt at Blue Grass in Kentucky and completely at Pueblo in Colorado.

The Department itself has repeatedly determined that the storing of these deadly weapons poses an increasing danger over time. Yet they now complain they will have to jump through multiple bureaucratic hoops before those sites can be up and running again. By obligating \$100 million immediately, we can get much-needed funds moving through the pipeline again and help jump-start the cleanup efforts at both sites.

My provision will also require the Department to provide Congress with a bimonthly accounting, every 2 months, of the money spent at these sites. This improved oversight will hopefully shed some light on the opaque processes at DOD. Perhaps with enough work, we can even find out how to make a budget both accurate and correct.

Because safety is paramount, my provision will do one more thing. It will

prohibit DOD from conducting a study on the transportation of chemical weapons across State lines. Because transporting chemical weapons across State lines is illegal already, one would think this provision unnecessary. But despite the law, the Department has ordered a study on doing that which it cannot legally do. It is a mystery to me why the Department would spend precious time and money exploring an option that is not an option, that is illegal under Federal law. Let me say again, the Department of Defense is currently spending funds that should be going toward destroying deadly chemical weapons on studying a course of action that is illegal.

That suggests to me that rather than destroying the chemical weapons where they are stored, the Department is considering transferring them out of the Blue Grass Army Depot to other facilities. That is reckless and irresponsible for too many reasons to describe. Kentuckians do not want trucks full of nerve gas speeding down the interstate, and I suspect neither do the people of other States, such as Alabama, Arkansas, Utah, or any other State. Even if it were legal, there is no way politically these weapons are going to be moved across the country to some other site for destruction.

Before I conclude, I want to address one more failure of the Department of Defense. By not meeting their obligations to the people of Kentucky and Colorado, they are breaking not only their word, they are breaking America's word. That is because by placing the ACWA sites on caretaker status, the Department is acknowledging the weapons will not be disposed of at least until 2016 at the earliest, yet the United States has signed the Chemical Weapons Convention, which establishes a deadline for elimination of these substances in 2012 at the latest. The Department of Defense should be working with all the speed it can muster to meet this deadline, not openly thumbing its nose at it. Passing this bill will move us closer to compliance with the Chemical Weapons Convention.

In this age of terrorism, our decision-making processes for handling and disposing of such horrifying weapons must be focused and clear. The Department of Defense approach to ACWA sites has been neither.

I urge our colleagues to support this bill. With the passage of section 1115, you will get accountability and transparency from the Department of Defense. You will ensure that the promise made to the people of Kentucky is a promise fulfilled. Most importantly, you will protect the safety of hundreds of thousands of Americans.

On the other hand, if we do nothing, it will all be left up to DOD. The best they can be is "accurate but incorrect."

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is time control in place right now?

The PRESIDING OFFICER. The Senator has 5 minutes prior to the first vote.

Mr. STEVENS. I have 5 minutes after 1:45 p.m.

The PRESIDING OFFICER. The Senator has 5 minutes before the vote at 1:45 p.m.

#### AMENDMENT NO. 334

Mr. STEVENS. Mr. President, I wish to speak first on the amendment offered by Senator KERRY.

The PRESIDING OFFICER. The Senator from Alaska may proceed.

Mr. STEVENS. Mr. President, our Defense Subcommittee has considered this matter very closely. We believe the provision for death gratuity is a special and unique situation, and we provided it in the bill before the Senate.

What we seek to provide is a special recognition for our Nation's fallen heroes who have given their lives in combat defending our Nation or who have died in training or other activity that is considered related to combat by title X.

Let me state that again. Our provision covers all service members who lose their lives in combat or who die in training or other activity that is considered combat related by title X.

The normal death gratuity in effect now is \$12,400. It provides immediate cash to meet the needs of survivors. This amount is payable immediately and is intended to provide sufficient funding to support families until other benefits, particularly those such as the Survivor Benefit Plan, Dependency and Indemnity Compensation, and Social Security, come into play.

We believe every life is precious, and we grieve over the loss of life when it occurs among anyone in our military. But our Appropriations Committee has included this provision to provide special recognition for fallen heroes. This special recognition is intended for those who have died as a result of combat or combat-related situations, such as training, and in support of the global war against terrorism our Nation is fighting.

The administration and the Department of Defense strongly oppose the recommended expansion of the death gratuity to cover all deaths of anyone who is in uniform. In fact, a 2004 independent study requested by the Department of Defense concluded that the full system of benefits provided to survivors of members who die on active duty is adequate, substantial, and comprehensive.

That study did identify a lack of recognition for direct sacrifice of life, as

provided by the Public Safety Officers' Benefit Act, which pays more than \$267,000 to survivors in recognition of deaths in performance of duty of law enforcement officers and firefighters. The Senate supplemental bill provides this type of recognition for our military.

First, if we consider opening the special death gratuity for all casualties, we should also consider the significance of a retroactive date, as we considered the concept of trying to cover all casualties. If the increased death gratuity is provided for all deaths, there is no longer a direct connection to the events of 9/11 and the war against terrorism.

Finally, to increase the death gratuity to include all deaths would cost an additional \$300 million in this year alone, 2005. The total bill for fiscal year 2005 would be about \$1.1 billion.

Many of us who served in war in defense of our Nation—and I am one of those—believe there is a special significance in the way we have defined death gratuity in the Senate bill before us now. We believe it is fully appropriate for the problem of recognizing fallen heroes.

I know this provision is related to other outpourings of those who have lost life in the September 11 controversy. There is a connection in that this provision seeks to recognize soldiers who have fallen as a result of the actions we have taken as a nation to address 9/11 in the fight against terrorism. I do not believe we should devalue the most heroic sacrifices of our men and women in uniform by making this cover anyone in uniform.

Mr. President, I do intend to oppose this amendment.

I have 5 minutes before 1:45 p.m.

AMENDMENT NO. 356

Mr. President, I also rise to oppose the amendment to fill the pay gap when Guard and Reserve are mobilized. This is the Durbin amendment. This emergency supplemental bill is not the proper legislative vehicle to add new benefits without approval of the committee of jurisdiction. The Senate Armed Services Committee, I am told, does not support the inclusion of this new benefit in our supplemental bill. The administration did not request that additional authority, and I am told it opposes this amendment. The proposed amendment, I believe, should be held for debate when the appropriate committee, such as the Armed Services Committee, brings the authorization bill before the Senate.

The amendment to this bill would require Federal agencies to pay any difference between military pay and civilian compensation for employees of the Federal Government who either volunteer or are called to active duty. The estimate we received from the Congressional Budget Office is this is an additional cost of \$152 million over a 5-year period.

Reservists and guardsmen know when they are activated what their

military pay will be, what their total compensation is. There is no misunderstanding about that. In an all-volunteer force, individuals choose whether they serve in the military. Certainly financial considerations enter into that decision, whether their service be full time or part time, with an obligation to answer the call of duty when necessary.

When Guard and Reserve members train for mobilization, they understand they are subject to mobilization during war and national emergencies. The likelihood of mobilization is evident as the Department has been mobilizing Guard and Reserve members almost continuously for the past 13 years.

More importantly, this provision would do a disservice to patriotic non-Federal reservists who are self-employed, small businessmen, or employees who do not receive such coverage as proposed by the Durbin amendment.

In addition, the amendment would allow mobilized reservists to make significantly more than those active-duty service members whom they join when they are called up to serve in active duty. This could be interpreted by some active-duty members to mean that the Federal Government places a higher value on the service of those people who are called up temporarily than we do on those who are career military people. The amendment would cause a significant equity issue as far as the active-duty service members and I believe would negatively affect their morale.

Requiring the Department of Defense and other Federal agencies to pay the differential salary limits the ability of agencies to accommodate staffing shortages through temporary personnel actions. Once these people are called up, the Department has to hire someone temporarily to take their place. The place is there for them when they come back, but they will not have the ability to have the money available if they have to pay this differential. This issue becomes more significant the longer the period of active duty.

Another concern is that this amendment does not distinguish between Reservists who volunteer to perform active duty and those who are involuntarily called to active duty. Reservists who volunteer for duty can weigh the financial impact of such service when considering whether to apply for an assignment.

Finally, Reserve service offers a robust pay and benefits package. With the support of Congress, military pay is now very competitive with pay in the private and public sectors and allowances are increasing to minimize out-of-pocket expenses.

Any changes to Guard and Reserve compensation system should be assessed for the long term, not just during this current deployment. Questions regarding affordability and equity of benefits must be carefully weighed and answered before we legislate changes.

This appropriation bill is not the appropriate legislative vehicle to set

military compensation policy; this change should be considered by the Armed Services and Governmental Affairs Committees which have jurisdiction over these matters.

Thus, we strongly recommend that the Senate hold this authorization measure for full consideration by the Armed Services and Governmental Affairs Committees. The amendment deserves adequate time for analysis and debate in light of the full system of military benefits and funding constraints.

I strongly oppose this amendment.

Mr. BYRD. Mr. President, Senator DURBIN's amendment touches on a critical issue: the strains being placed upon the National Guard and the Reserve by the long deployments to Iraq and Afghanistan. He correctly points out that these deployments have resulted in a financial crisis for unknown numbers of American families who have loved ones called to duty, pulled out of their civilian careers, and sent half a world away for long periods of time.

The amendment pending before the Senate would compensate those members of the National Guard and the Reserve who suffer a loss of income because they are away from their civilian jobs—but only if those jobs are with the Federal Government. The many Guardsmen and Reservists who work in the private sector would not be helped by the amendment.

I am very sympathetic to the plight of the families of National Guardsmen and Reservists who have found themselves in dire financial straits because of a long, unexpected deployment that takes the family breadwinner away from his job. I have heard from families in West Virginia who could be facing financial ruin because of a soldier's drop in income due to a protracted, 18-month deployment.

However, the Congress is approaching this problem from the wrong end. The heart of this matter is not how much Uncle Sam may pay our citizen-soldiers. The problem is that our National Guard and Reserve are being deployed, and re-deployed, for such long periods at a time. The United States hasn't sent so many part-time soldiers overseas in half a century. In addition to causing financial hardships for many American families, the pace of these deployments is threatening to break the back of the National Guard and the Reserve.

In 2003, I offered two amendments to limit the deployment and re-deployment of the National Guard and Reserve. Unfortunately, the Senate voted down those amendments, and the strains on the National Guard and the Reserve continue and, in some cases, are worsening. Until Congress limits the excessive deployments of our citizen-soldiers, or until our troops start coming home from Iraq, there will continue to be myriad strains on our troops and their families. It is not reasonable to expect the government to

compensate our troops and families for each difficulty or strain that this foolish war in Iraq has caused, because our national treasure is finite.

What's more, I am concerned that the amendment on which the Senate will soon vote will have financial consequences for many years down the road. Our country is neck deep in red ink, and Congress must be judicious in enacting benefits that grow to have a life of their own well after the Senate has voted. This problem is compounded by the refusal of the President to budget for the costs of the wars in Iraq and Afghanistan. If the White House does not budget for the war, there is no way to increase revenues or lower other spending in order to balance the budget. In the coming days of debate on this emergency supplemental appropriations bill, I will offer an amendment on this crucial point.

Despite these reservations about the pending amendment, the bottom line is that the families of many National Guardsmen and Reservists are experiencing real financial hardships. Although this amendment will only take care of some of those families, it will provide a lifeline to families who are struggling to make ends meet because of the demands of the war in Iraq. I commend the Senator from Illinois for his commitment to the National Guard, and I will support him on this amendment.

However, when the Senate next considers relieving the strains caused by the long deployments of the Guard and Reserve, the Senate should not adopt a piecemeal approach. The heart of the matter is our open-ended mission in Iraq. Unless that matter is addressed head-on, Congress will continue to find more and more ways to spend our nation's scarce treasure. That is not a wise fiscal course.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am disappointed that the Senator from Alaska, who has served the Senate and his country so well, now opposes this amendment. When it was last offered on an emergency supplemental bill on October 17, 2003, he joined with 95 of our colleagues in voting for this amendment. I think the amendment still is a valid amendment.

Let me explain what the amendment does. Seventeen thousand Federal employees have been activated into Guard and Reserve units. They find that when they go into this activated status, they are receiving less in income than they were paid by the Federal Government. The bill says the Federal agencies they worked for will make up the difference so as they are serving our country and risking their lives overseas they will have this pay differential, so their families will be able to keep the mortgage paid, pay the utility bills, and keep the family together.

The Senator suggests this is going to create some sort of a disadvantage to those in active military, but I am sure

he feels, as I do, that companies across America that stand behind their employees who are activated in the Guard and Reserve are doing the right and patriotic thing by making up the difference in pay between what one is paid when they are home and what one is paid when they are in uniform. They are saying to this soldier: We are with you; we are with your family; serve your country and come back to your job; we are proud of you.

There is one employer at the top in America that does not do it. It is the Federal Government. The arguments are made on the floor today that if we stand behind these soldiers who are Federal employees, somehow it is a poor reflection on the rest of the military. That is not true. We revere and honor those who serve our country, active military, activated Guard, activated Reserve. Fifty-one percent of the activated Guard and Reserve take a cut in pay to serve America. What I am saying is if one is a Federal employee, for goodness sakes, they ought to have their salary made whole. Why should they go overseas, worrying about whether they are going to get hit by a bullet, step on a landmine or hit by a rocket-propelled grenade, and whether their spouse can pay the bills at home for tuition for the kids? Why do we not stand behind these soldiers who are serving? We are out there on the Fourth of July waving our flags, but, for goodness sakes, we have a chance to stand behind them today on the Senate floor. It is absolutely shameful that the Federal Government will not provide the same kind of pay protection for our activated Guard and Reserve that over 900 private businesses, State and local governments, have provided across America. We honor them.

The Secretary of Defense has a Web site to honor the fact that they are standing behind the soldiers, but we do not do it. The Federal Government does not do it. This is our chance to make a difference.

Also, on the Kerry amendment, I disagree with the Senator from Alaska. To think that if someone is on a troop plane headed over to Kuwait and, God forbid, it crashes, they are entitled to \$12,000; however, if they get off the plane and are killed in combat they should be entitled to \$100,000—I think they are heroes in both instances. Senator KERRY is suggesting we should regard them as such. I think his amendment is a valid amendment and, yes, it does cost money. It costs money to stand behind our veterans, our soldiers, and their families. That is part of the real cost of war. That is why I urge my colleagues to vote for this amendment. The amendment I am offering today passed 96 to 3 when last called. It passed by a voice vote after that. It has the support of the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States. These organizations represent the men and

women who are risking their lives in Iraq and Afghanistan, and are asking for basic fairness from the Federal Government. I think this amendment is long overdue.

For 3 years now, this amendment has been lost in conference. It passes on the Senate floor and disappears, and Federal employees activated to serve our country wonder what happened. Well, today we will have a chance with this rollcall vote to see if we want to stand behind these men and women in uniform. This is an amendment that is long overdue.

I ask unanimous consent that Senator SALAZAR of Colorado be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I suggest the absence of a quorum, before a vote is called.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that we each have 1 more minute.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to address the Senator from Illinois because every person the Senator has mentioned in connection with Senator KERRY's amendment is covered. All the people on an airplane going to combat are covered. Any training-related combat, they are covered. The question is whether people who stand side by side with someone in the Pentagon working daily in uniform, a civilian person working the same job, whether one should be covered in the event of death and the other should not, whether one should be covered while driving home here in Washington, DC, after drinking too much, gets in an automobile accident, and get the same benefit a fallen hero gets. I ask the Senator if he would consider in connection with his amendment eliminating a request for the yeas and nays and we would be glad to accept that amendment.

Mr. DURBIN. I say to the Senator, if I had not lost this amendment twice in conference after it passed the Senate, I would agree to that, but I think we need a record vote. I do not know what it takes to finally get this Senate to go on record and stand by the Senate position in conference. Twice now we have taken this proposal to conference and it has disappeared, with the White House or Department of Defense or somebody opposing it. If we have a record vote, I think we have a much better chance to say to the conferees, for goodness sakes, the third time, let us stand up for these men and women.

I am sorry; I want to insist on the yeas and nays. I believe that is the only way to make it clear where we stand on the issue and to convince the conferees to finally stand for the Senate position if it succeeds.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I move to table the Senator's amendment.

Mr. COCHRAN. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER (Mr. SUNUNU). Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 39, nays 61, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—39

|           |          |           |
|-----------|----------|-----------|
| Allard    | DeMint   | McCain    |
| Bennett   | Ensign   | McConnell |
| Bond      | Frist    | Murkowski |
| Brownback | Graham   | Santorum  |
| Bunning   | Grassley | Sessions  |
| Burns     | Gregg    | Shelby    |
| Burr      | Hagel    | Smith     |
| Chambliss | Hatch    | Stevens   |
| Coburn    | Inhofe   | Sununu    |
| Cochran   | Isakson  | Talent    |
| Cornyn    | Kyl      | Thune     |
| Craig     | Lott     | Vitter    |
| Crapo     | Lugar    | Voinovich |

NAYS—61

|           |            |             |
|-----------|------------|-------------|
| Akaka     | Domenici   | Mikulski    |
| Alexander | Dorgan     | Murray      |
| Allen     | Durbin     | Nelson (FL) |
| Baucus    | Enzi       | Nelson (NE) |
| Bayh      | Feingold   | Obama       |
| Biden     | Feinstein  | Pryor       |
| Bingaman  | Harkin     | Reed        |
| Boxer     | Hutchison  | Reid        |
| Byrd      | Inouye     | Roberts     |
| Cantwell  | Jeffords   | Rockefeller |
| Carper    | Johnson    | Salazar     |
| Chafee    | Kennedy    | Sarbanes    |
| Clinton   | Kerry      | Schumer     |
| Coleman   | Kohl       | Snowe       |
| Collins   | Landrieu   | Specter     |
| Conrad    | Lautenberg | Stabenow    |
| Corzine   | Leahy      | Thomas      |
| Dayton    | Levin      | Thomas      |
| DeWine    | Lieberman  | Warner      |
| Dodd      | Lincoln    | Wyden       |
| Dole      | Martinez   |             |

The motion was rejected.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. The yeas and nays have been ordered on the underlying amendment. I ask the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Durbin amendment.

The amendment (No. 356) was agreed to.

Mr. COCHRAN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. We have under the order a vote, now, on two Kerry amendments, Nos. 333 and 334. Is there time for debate?

The PRESIDING OFFICER. Under the previous order, there is 2 minutes to be evenly divided on each amendment.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague in sponsoring these amendments, which will increase the death gratuity from \$12,000 to \$100,000 for all service members killed on active duty, and allow their dependents to continue receiving the basic housing allowance for a full year instead of the 180 days in current law.

All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their missions. But we also need care for the families of these courageous men and women who make the ultimate sacrifice.

Any service member's death is tragic, whether in combat overseas or a training accident here in the United States. They are heroes, not victims. These brave men and women came forward to serve our country knowing what the dangers were and knowing the possibilities. They stood tall when the country needed them.

Their case is a tragedy, and so is the void left behind for their loved ones.

We know what happens when a family is notified of a death. There is a knock on the door. They open the door and a military officer is standing there to give them the most dreaded news they will ever receive. Details are few and typically only include the time and place of the death, and perhaps some brief words on how it happened. A few days later, he provides them a death gratuity check for \$12,000 and helps them through the process of making the funeral arrangements while the flag draped coffin is on the way home.

After the burial, the conversation turns to additional funds and benefits. The topic often has to be pressed by the officer, because the families, so burdened, seldom think in terms of what their benefits might be. They slowly realize that instead of having a constant breadwinner for many years, they receive only a modest monthly sum.

The burden of combat deaths falls most often on the junior enlisted personnel, whose average yearly wages can be as low as \$17,000. The actual benefit depends on number of children

and other specific circumstances, and decreases over time because of age or a child's status as a student.

The current Senate bill uses the administration's formula to achieve a \$500,000 threshold, and includes some noncombat deaths, but not all of them. The bill, for example, provides a \$100,000 gratuity to survivors of those killed in training accidents. But it retains the current \$12,000 gratuity for other types of deaths, such as those who collapse during strenuous exercise or are killed in an accident driving to work. It is distinction without a difference for the family of the service member who died. They know only that their loved one went to work to help prepare their fellow soldiers, marines, sailors or airmen for battle and will never return. In today's military, all jobs and stations are equally important.

Our amendment eliminates any distinction between combat and non-combat deaths and provides a death gratuity of \$100,000, regardless of where or how a service member dies.

Along with other provisions of the bill, the amendment would increase the total death benefit to \$500,000, depending on the amount of military life insurance a person carries.

No one can ever put a price on a human life, but there is no doubt that current levels are unacceptably low.

It's also very important to extend the length of time for surviving widows and children to remain in military housing to a full year, either on base or with housing assistance.

Currently, surviving spouses and dependents of military personnel killed on active duty may continue in their military housing or receive their military housing allowances for up to 180 days after the death of their loved one.

Their loss is traumatic enough without the immediate pressure of having to find a place to live, moving, and disrupting their life all over again. Extending the length of time for survivors to stay in military housing gives them greater flexibility as they struggle to deal with what has happened. Children will be able to finish the school year among friends and in familiar surroundings.

We know we can do much more to take care of military families after the loss of a loved one. We have been complacent for too long, and I urge my colleagues to support us in providing this much needed and well-deserved relief to these courageous and suffering families.

Mr. KERRY. Mr. President, point of inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 333

Mr. KERRY. Mr. President, it is my understanding the Senator from Alaska, or the manager, is prepared to accept one of the amendments, I think. Am I correct?



Mr. STEVENS. The Senator is correct; we are willing to accept the second amendment.

Mr. KERRY. Mr. President, that is amendment No. 334, which extends the period of time that spouses can remain on a base after their spouse has died in action.

Mr. STEVENS. Mr. President, that is amendment No. 334.

I ask unanimous consent that the rollcall be vitiated and the Senate adopt that amendment.

Mr. KERRY. Amendment No. 333.

Mr. STEVENS. Amendment No. 333?

Mr. KERRY. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor.

The PRESIDING OFFICER. To which amendment?

Mr. KERRY. To amendment No. 333 and amendment No. 334.

The PRESIDING OFFICER. Without objection, it is so ordered. The cosponsor will be added to both amendments.

Mr. STEVENS. Our records show it is amendment No. 334.

Mr. KERRY. Mr. President, there is confusion.

Mr. STEVENS. I am corrected; it is amendment No. 333.

The PRESIDING OFFICER. It is the understanding of the Chair, the amendment described by the Senator from Massachusetts is—

Mr. KERRY. No. 333.

The PRESIDING OFFICER. No. 333.

Mr. KERRY. Thank you.

The PRESIDING OFFICER. Does the Senator from Alaska wish to modify his unanimous consent request?

Mr. STEVENS. I have made the motion we vitiate the rollcall and accept the amendment.

The PRESIDING OFFICER. No rollcall has been ordered at this time. Without objection, amendment No. 333 is agreed to. The motion to reconsider is laid upon the table.

The amendment (No. 333) was agreed to.

The Senator from Massachusetts.

AMENDMENT NO. 334

Mr. KERRY. Mr. President, the second amendment is an amendment to raise the death benefit for those who die while in service to our country. Currently, it is \$12,000 plus change. We want to take it up to \$100,000.

The Senator is going to tell you that the Pentagon is opposed to this. Secretary Rumsfeld is opposed to this. The uniformed leadership at the Pentagon is overwhelmingly in favor of it.

Air Force GEN Michael Moseley said:

I believe a death is a death and our servicemen and women should be represented that way.

Army GEN Richard Cody said:

It is about service to this country and I think we need to be very, very careful about [drawing a] distinction.

And GEN Richard Myers, Chairman of the Joint Chiefs of Staff, said:

I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

Let me say to our colleagues, you can be driving a car and have a car accident in a combat zone, and you qualify for the upper level. But if you are serving on an aircraft carrier or elsewhere and you are training personnel, and you die from a catapult that falls or you have an accident, you do not get the same benefit, even as you are preparing to send troops to war.

That is wrong. We believe you ought to apply it according to the desire of the uniformed generals, which is to treat all members of the service the same way.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska.

Mr. STEVENS. Mr. President, respectfully, the Senator from Massachusetts is wrong. Those who die in training or other activities related to combat are covered by our amendment. We sought to recognize fallen heroes from the time they enter training for combat to go overseas. They are covered by our amendment. What this amendment does is it does not give us the opportunity to recognize those who put their lives on the line. We oppose this amendment because of that fact. We do believe there ought to be a distinction.

The Senator's amendment will mean, if someone right here in this district while in uniform drinks too much and dies while driving home, they are going to get this gratuity, the same gratuity the fallen hero should get. It is wrong to cover anyone in uniform with this type of allowance. We have increased the insurance for everyone in uniform. They can buy up to \$400,000. But raising this from \$12,240 to \$100,000—it should go to those related to combat and in combat.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 25, nays 75, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—25

|         |           |           |
|---------|-----------|-----------|
| Allard  | Dole      | Santorum  |
| Bennett | Domenici  | Sessions  |
| Bond    | Enzi      | Shelby    |
| Bunning | Frist     | Stevens   |
| Burns   | Grassley  | Thomas    |
| Burr    | Hatch     | Voinovich |
| Cochran | Inhofe    | Warner    |
| Cornyn  | Lott      |           |
| DeMint  | McConnell |           |

NAYS—75

|           |           |           |
|-----------|-----------|-----------|
| Akaka     | Bingaman  | Chafee    |
| Alexander | Boxer     | Chambliss |
| Allen     | Brownback | Clinton   |
| Baucus    | Byrd      | Coburn    |
| Bayh      | Cantwell  | Coleman   |
| Biden     | Carper    | Collins   |

|           |             |             |
|-----------|-------------|-------------|
| Conrad    | Jeffords    | Nelson (NE) |
| Corzine   | Johnson     | Obama       |
| Craig     | Kennedy     | Pryor       |
| Crapo     | Kerry       | Reed        |
| Dayton    | Kohl        | Reid        |
| DeWine    | Kyl         | Roberts     |
| Dodd      | Landrieu    | Rockefeller |
| Dorgan    | Lautenberg  | Salazar     |
| Durbin    | Leahy       | Sarbanes    |
| Ensign    | Levin       | Schumer     |
| Feingold  | Lieberman   | Smith       |
| Feinstein | Lincoln     | Snowe       |
| Graham    | Lugar       | Specter     |
| Gregg     | Martinez    | Stabenow    |
| Hagel     | McCain      | Sununu      |
| Harkin    | Mikulski    | Talent      |
| Hutchison | Murkowski   | Thune       |
| Inouye    | Murray      | Vitter      |
| Isakson   | Nelson (FL) | Wyden       |

The motion was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 334) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I want to thank my colleagues for having supported amendment No. 334 to extend the \$100,000 death gratuity to the survivors of all who die on active duty.

I want the record to show what the amendment will accomplish and why what it accomplishes is important.

Current law provides \$12,000 to all members of the military who die on active duty, regardless of circumstance.

Earlier this year, President Bush proposed increasing the death gratuity to \$100,000 for those who die in Iraq, Afghanistan, or designated combat zones.

The supplemental legislation reported by the Appropriations Committee increases the death gratuity to \$100,000 for those who die in combat and those classified under circumstances classified as warranting Combat Related Special Compensation, CRSC, if they had lived. CRSC was a compromise brokered a few years ago in lieu of concurrent receipt. Using CRSC, the \$100,000 death gratuity would go to those who die "as a direct result of armed conflict; while engaged in hazardous service; in the performance of duty under conditions simulating war; or through an instrumentality of war." For all others, the death gratuity remains \$12,000.

My amendment is very simple. It changes the existing law to say \$100,000 shall be paid in death gratuity under all circumstances in which \$12,000 is now paid. It eliminates the provisions in the legislation that distinguish between the manner and place of deaths. It eliminates any connection to combat related special compensation. It does not extend the death gratuity to anyone who doesn't already receive the \$12,000.

The amendment simply heeds the advice of the uniformed leadership of the military who said, unambiguously, that a death is a death, and Congress should not try to parse them.

General Richard A. Cody, U.S. Army, said:

It is about service to this country and I think we need to be very, very careful about making this \$100,000 decision based upon what type of action. I would rather err on the side of covering all deaths rather than try to make the distinction.

Admiral John B. Nathman, U.S. Navy, said:

This has been about . . . how do we take care of the survivors, the families and the children. They can't make a distinction; I don't believe we should either.

General Michael T. Moseley, U.S. Air Force, said:

I believe a death is a death and our servicemen and women should be represented that way.

General William Nyland, U.S. Marine Corps, said:

I think we need to understand before we put any distinctions on the great service of these wonderful young men and women. . . . they are all performing magnificently. I think we have to be very cautious in drawing distinctions.

Finally, General Richard Myers, the Chairman of the Joint Chiefs of Staff, said:

I think a death gratuity that applies to all service members is preferable to one that's targeted just to those that might be in a combat zone.

I also want to note that the practical effect of my amendment is identical to the provisions of the House-passed supplemental. The underlying bill, H.R. 1268, passed the House on March 16, 2005, and in section 1113 it would require an equal death gratuity of \$100,000 for all service members, regardless of the circumstance and location of their death. Like my amendment, it does not treat one military family differently than others.

Lastly, my amendment has been endorsed by the Enlisted Association of the National Guard of the United States, EANGAUS; the Military Officers Association of America, MOAA; the National Guard Association of the United States, NGAUS; the National Military Family Association, NMFA; the Reserve Enlisted Association, REA; and the Reserve Officers Association, ROA.

I thank my colleagues again for their support and look forward to working with them to hold this mark in conference.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 367

Mrs. HUTCHISON. Mr. President, I rise to speak against the Byrd amendment. It is my understanding that, after I speak and after Senator BYRD has a few minutes to respond, we will have a vote on this amendment.

The amendment put forth by Senator BYRD would take out \$40 million requested by the administration in emer-

gency funds to build a detection facility and security fence at Guantanamo Bay. I believe we must keep the \$40 million to allow the Department to move forward to make better facilities at Guantanamo Bay, facilities that are more secure, and facilities that will make operations more efficient, especially in the use of guards.

Currently, there are about 545 detainees at Guantanamo Bay. About half of those are housed in three camps, which are built as temporary facilities. I have seen these facilities. Many of us have gone to Guantanamo Bay to look at them. They are basically walls made of chain-link fences. Of course, there is no climate control, and there is not very much room for exercise of detainees. Building the more permanent facility would provide a better, more secure facility, and facilities that are better housing units.

I think Guantanamo Bay is the perfect place to hold these types of detainees, many of whom are dangerous terrorists. I do not want these prisoners moved. I don't want them moved into facilities in communities in our country, on our shores, where they can pose a danger for our citizens and serve as a lightning rod for terrorist activity. Al-Qaida has shown that it will try to liberate—by force if necessary and with no regard to the loss of innocent lives—their fellow terrorists. U.S. forces in Iraq and Afghanistan have weathered such attacks and thwarted repeated violent escape attempts. Recent reports of tunnels, riots, and mortar attacks against detention facilities in Iraq have been well publicized in the press.

Do we want to move that to the lower 48 States in the United States of America? I don't think so. Having them on an island, where other terrorist attempts to free prisoners are much less able to be put forth, is the exact right place for these prisoners. I want to make sure that we have the best facilities possible and that we have the permanent facilities on an island in Cuba so that there is not as much capability to do harm to innocent Americans as there would be if we moved those prisoners to places on our soil such as Atlanta, GA, or Florida.

The detention facility that would be built will also reduce the number of required personnel. The current facilities require significant personnel to monitor detainees. A permanent facility would free 150 of them to perform other tasks in the global war on terror. It will be the same for the security fence; we could free up 196 people who are now guarding around the perimeter of Guantanamo Bay. So that is 346 fewer guards that would be needed if we had the permanent facilities.

It is very important that we keep the \$40 million asked for by this administration to make better, more permanent facilities at Guantanamo Bay. I want them to stay on that island, not moved into the United States where we know terrorists are dwelling, we know

they are looking for ways to attack our country. The last thing we want is for them to start moving into detention facilities to try to free prisoners and, in the process, harm innocent Americans or the people who are guarding those prisoners.

So I ask the Senate to vote this amendment down and give the administration and the Department of Defense the capability to house these prisoners in the most efficient way possible and certainly in a way that protects American lives to the greatest extent possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not know of any other Senators who intend to debate this issue. I would like to put an exclamation point on the statement made by the distinguished Senator from Texas though.

One thing that is clear, if we do not have a permanent facility there, an improved facility, we are going to have to keep more U.S. personnel there guarding and maintaining the security of this facility. If we use the funds the administration is requesting, approve the request the administration has submitted to the Congress, then we will be able to use a lot of the people who are there now for other purposes elsewhere in the war on terror to help better defend the country and make sure we are safeguarding the security interests of the American people.

This is not to help prisoners have a better deal, even though the facility will be more humane and easier to care for and to deal with, but it will be more secure, and it will help us reallocate resources that will benefit our national security interests. That is the point.

This is money well invested. The administration is requesting it. Our subcommittee chair supports it after reviewing the request. So I think the Senate should support the committee and what it has recommended and reject the Byrd amendment.

The PRESIDING OFFICER. Is there further debate on the Byrd amendment? The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Pentagon defends the current facilities for the incarceration of prisoners at Guantanamo as being safe, secure, and humane. There

is no emergency, unforeseen or otherwise, that requires the immediate construction of a 220-bed maximum security prison to relieve existing deficiencies at Guantanamo, and so it is premature.

That is part of the case I am making, it is premature. Why have this item in this bill? Why in an emergency supplemental bill? It is premature to ask the American taxpayers to spend \$36 million—it is your money, I say to the taxpayers—to build a permanent maximum security prison at Guantanamo when the courts have not yet determined the legal status of the detainees at Guantanamo or have not determined whether the United States can continue to hold them indefinitely without charging them with a crime.

The prison population at Guantanamo is steadily declining, down to about 540 from a high of 750. The Department of Defense reportedly hopes to further cut the current population by at least half. However, DOD has not given a firm estimate of how many detainees it expects will require long-term incarceration.

Why all the hurry? The 220-bed prison is a guesstimate—a guesstimate—not an estimate.

The Department of Defense has already built one permanent maximum security prison at Guantanamo, a \$16 million state-of-the-art facility completed less than a year ago that has the capacity to hold 100 prisoners.

Temporary detention facilities at Guantanamo include several camps in which prisoners are housed in individual cells with a toilet and sink in each cell, and one camp where detainees who are considered the least dangerous are housed in 10-man bays with all-day access to exercise yards.

The Department of Defense contends that these temporary facilities are nearing the end of their useful life, but the Department does not argue they are unsafe or uninhabitable.

The U.S. military has many urgent unmet needs, some of which are emergency status needs. Construction of a second permanent maximum security prison at Guantanamo is not among these urgent, unmet needs. This is a decision that should be deferred until the courts have resolved the legal status of the detainees at Guantanamo and until the Defense Department determines the number of detainees it expects to hold in custody for the long term.

What I am saying right now is the request is premature. Let us wait until the courts do their job. Then we will have a picture of what we need to do. Let us not be premature in spending the taxpayers' money when there are too many unanswered questions that ought to be answered and which in time will certainly present us with a clear picture of the permanent needs.

I thank the Chair and thank all Senators.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 27, nays 71, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—27

|           |            |             |
|-----------|------------|-------------|
| Akaka     | Harkin     | Mikulski    |
| Baucus    | Inouye     | Pryor       |
| Biden     | Jeffords   | Reed        |
| Boxer     | Johnson    | Reid        |
| Byrd      | Kohl       | Rockefeller |
| Carper    | Lautenberg | Sarbanes    |
| Dorgan    | Leahy      | Specter     |
| Feingold  | Levin      | Stabenow    |
| Feinstein | Lincoln    | Wyden       |

NAYS—71

|           |           |             |
|-----------|-----------|-------------|
| Alexander | DeMint    | McCain      |
| Allard    | DeWine    | McConnell   |
| Allen     | Dodd      | Murkowski   |
| Bayh      | Dole      | Murray      |
| Bennett   | Domenici  | Nelson (FL) |
| Bingaman  | Durbin    | Nelson (NE) |
| Bond      | Ensign    | Obama       |
| Brownback | Enzi      | Roberts     |
| Bunning   | Frist     | Salazar     |
| Burns     | Graham    | Santorum    |
| Burr      | Grassley  | Schumer     |
| Cantwell  | Gregg     | Sessions    |
| Chafee    | Hagel     | Shelby      |
| Chambliss | Hatch     | Smith       |
| Clinton   | Hutchison | Snowe       |
| Coburn    | Inhofe    | Stevens     |
| Cochran   | Isakson   | Sununu      |
| Coleman   | Kerry     | Talent      |
| Collins   | Kyl       | Thomas      |
| Conrad    | Landrieu  | Thune       |
| Cornyn    | Lieberman | Vitter      |
| Coryzine  | Lott      | Voinovich   |
| Craig     | Lugar     | Warner      |
| Crapo     | Martinez  |             |

NOT VOTING—2

|        |         |
|--------|---------|
| Dayton | Kennedy |
|--------|---------|

The amendment (No. 367) was rejected.

Mr. COCHRAN. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 372

Mr. CORNYN. Mr. President, I call up my amendment numbered 372, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 372.

Mr. CORNYN. I ask unanimous consent the reading of the amendment be dispensed with.

The amendment is as follows:

(Purpose: To express the sense of the Senate that Congress should not delay enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate)

At the appropriate place, insert the following:

SEC. \_\_. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) our immigration system is badly broken, fails to serve the interests of our national security and our national economy, and undermines respect for the rule of law;

(2) in a post-9/11 world, national security demands a comprehensive solution to our immigration system;

(3) Congress must engage in a careful and deliberative discussion about the need to bolster enforcement of, and comprehensively reform, our immigration laws;

(4) Congress should not short-circuit that discussion by attaching amendments to this supplemental outside of the regular order; and

(5) Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

Ms. MIKULSKI. Mr. President, I realize the Senator from Texas has been recognized to offer his amendment. I ask unanimous consent I be permitted to offer my amendment after the Cornyn-Feinstein amendment.

Mr. CORNYN. Reserving the right to object, I have no objection to that request. I note that Senator FEINSTEIN, who is also joining me as a cosponsor on this amendment, would like to speak following me. Senator ISAKSON would also like to speak. I ask unanimous consent they be recognized.

Ms. MIKULSKI. Withholding the right to object, I have no objection to how long you wish to speak on your amendment, Senator. I wanted to be sure I got to offer my amendment this afternoon.

Mr. CORNYN. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Maryland will be considered after the amendment of the Senator from Texas.

Mr. CORNYN. I thank the Senator from Maryland for working with us.

This amendment is a sense of the Senate that Congress should not delay enactment of the supplemental appropriations bill by attempting to conduct a debate about comprehensive immigration reform at this time.

As I made clear, along with Senator KYL and others on this point, I am for comprehensive immigration reform. It is long overdue. It is something in the regular order we are going to consider, both in the Subcommittee on Immigration, Border Security, and Citizenship, which I chair in the Judiciary Committee, but also I have talked with the chairman of the full Judiciary Committee, Senator SPECTER, and he has

advised me that once we complete our work—hopefully in the next couple of months—he would give us an expedited markup in the full committee.

On a subject so complex and potentially divisive as comprehensive immigration reform, it is appropriate we take up this issue as we would most complex issues; that is, by the regular order. It is particularly important we do so in light of the subject matter of the present legislation in the Senate which is an emergency supplemental appropriations bill that should be passed without undue delay so our men and women in uniform can get the resources they need, including the equipment to do the job we have asked them to do and which they have so heroically agreed to do on our behalf in the war on terror.

I confess there are many good proposals out there with regard to immigration reform. The Senator from Maryland has a proposal on H-2B on which there will be some agreement; some people will agree with it. The distinguished Senator from Idaho has a bill called the agriculture jobs bill which will attempt to create a workforce that can work in the agricultural industry. I have some problems with the details of that bill, but in the main it is a well-intentioned effort to try to deal with part of this problem.

I say “part of this problem” advisedly. Rather than try to deal with this issue on a piecemeal basis, it is important we enact comprehensive reform. For too long we have simply ignored the fact our borders are not secure, that once people get past the border they literally can melt into the landscape. It has resulted in the current untenable proposition that there are about—no one knows for sure—10 million people who have come into our country outside of our laws. We need to deal with that, particularly in a post-September 11 environment, by addressing the security concerns, by restoring our reputation in this country as a nation that believes in and adheres to the rule of law but also in a way that is compassionate and deals with the economic reality involved where approximately 6 million of those 10 million people are currently in the workforce, many performing jobs American citizens simply do not want to perform.

It is not because I disagree with the general intent of immigration reform that I speak in favor of this resolution, which says we ought to take up this matter but in the regular course and on another day.

It is mainly because I do not want to see, nor do I believe any Senator on the floor or in their office or elsewhere would want to see us get bogged down and diverted in an immigration debate that, frankly, I do not think we are yet ready for, and at a time which I think could well damage our long-term prospects at getting comprehensive immigration reform passed, but particularly in a way that is calculated—let me change that word; it is not “cal-

culated”—the result likely would be that we would slow down and perhaps bog down this emergency supplemental appropriations bill to equip our troops with what they need.

So this resolution suggests, in the last paragraph, that:

Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

I commend this to all of our colleagues. I express my appreciation in particular to the Senator from California, Mrs. FEINSTEIN, for working with us. We both serve on the Judiciary Committee and believe this is an important issue. But it needs to be handled in the regular course that would not divert us from the immediate task at hand, which is to make sure our troops have the resources they need in order to complete the job we have asked them to do on our behalf.

Mr. President, with that, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas for authoring this sense-of-the-Senate amendment. I am proud to be a cosponsor. I agree with all the comments he has made. I believe it is a huge mistake to bypass the Judiciary Committee, to bypass the Immigration Subcommittee on bills that are big in their ramifications on the United States of America.

If we do that, we will get into a debate on the floor on the AgJOBS bill. I think very few people know, for example, that the way the bill is written you can have two misdemeanor convictions and essentially still get a temporary green card. That can be misdemeanor theft. That can be misdemeanor battery. That can be misdemeanor drugs. I will have an amendment to address that. I will take some time with it.

Most people do not know you just have to have 100 hours of work in a 12-month period. I will have an amendment to address that, and there will be other amendments to address that. But this is a very controversial bill that can have a huge impact on the number of people coming across the border. At the very least, it should have a markup in Judiciary. We should have an opportunity to make amendments in Judiciary before it comes to the floor of the Senate as an amendment on an appropriations bill.

There is also the REAL ID bill, which very well may come up. Senator MIKULSKI has an amendment on H-2B. I am concerned about it because it does not have a cap on the number, and the H-2B quota has been reached. I believe it is 66,000. Maryland has some problems, which are valid problems, I am sure. But just to open the bill, unless there is a specified number—I think we need to discuss it.

I will bring up the State Criminal Alien Program for reauthorization. This is paying back the States for their costs of confinement of illegals who commit felonies and misdemeanors and go to county jails and State prisons. So it will open a long and complicated debate on the floor of the Senate. We should not do that. Please. I have sat as a member of the Immigration Subcommittee now for 12 years. I come from a big immigration State, the largest, no doubt about that, in America, a State with very deep concerns.

I understand the agricultural labor needs of the States as well as anyone. And not to be able to have a markup, not to be able to make amendments in a committee and present a bill that has been scrubbed, amended, and is ready for prime time, I believe, is a huge mistake.

So I am very pleased to support the Senator's amendment. I will have another amendment in due course in this area as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I stand at this moment to very cautiously oppose the resolution and to express my reason. I say “cautiously” because of my respect for the Senator from Texas and respect for the Senator from California and all of the work they are putting into immigration and the need for comprehensive reform.

None of us in the Senate argue about it, but we certainly are willing to talk about it. In fact, we have talked about it now for 1,201 days since 9/11. Mr. President, 9/11 was that day of awakening when we found out there were millions of foreign nationals in our country without documentation, and some of them were here with evil intent. Not many but some. Most are here and hardworking.

Tragically enough, because of the character of an obsolete package of immigration laws, they are living in the back streets and shadows of America. They have no rights. They work hard. Many of them take their money back to their birth country. Some of them attempt to stay. That is where we are. We all know that.

The Senator from California has talked about the numbers. Her State has a very big problem. I hope we can get into that debate.

Let me also talk about the timing of it. I think you are going to see, if it is extended, only those who would want to extend the time of this debate. The issue of the Senator from Maryland is a very small, sensitive, important debate. It is very time sensitive. That law should have been in place the first of April so the hires could have gone forth at the first of May. In my State, the resorts open June 1. It is critical that workforce be in place by June 1.

Comprehensive debate, according to the Senator from Texas, should probably take place late summer, early fall, when they have finally done their

work. I do not criticize them for that. But I must tell you, long before 9/11 I was looking at the very tragic situation of American agriculture. American agriculture has admitted openly that they have a very large problem. It is quite simple. The Bureau of Labor and Statistics will tell you the workforce may have as many as, well, 1.6 million workers, and 70 percent of them are not documented and therefore, by definition, illegal. By surveys alone, the workers admit it. Yet we now say: Gee whiz, we will talk about it now.

It is too late now. It can't be done now. It is time sensitive to the industry, very time sensitive to the food on the shelf of the American consumer, time sensitive to humane support of those who toil in our fields.

No, there is never the right time. And, oh, about this supplemental, this "urgent" supplemental—I am sorry, I do not mean to criticize the Senator from Texas—we have been urgently working on this for 2 months. That is how long ago the President proposed it, 2 months ago. We will have this on the President's desk by the first of May. That is when they want it. We do not need to debate immigration for 4, 5 days unless the Senator from California wants to drag it out.

There will be amendments on the floor of the Senate to my bill, and there should be. It is open for amendment. I would hope I could convince Senators to take it as it is. It has had hearings before the Judiciary Committee. It is well vetted. It has been 8 years in the crafting. Last year, I had 509 groups supporting it. This year I will have 600.

This issue's time has come, and it is time the Senate deal with it openly and forthrightly. I was willing to step back for a moment. I told the leader so. The leader worked on it but could not put that package together. I will be on the floor of the Senate later today, hopefully, offering my amendment. It has been filed at the desk. We can deal with this in a day, unless there are Senators who want to drag it out by throwing in amendments that ought to go in the substantive comprehensive package that the Senator from Texas, chairing the committee, is working on and attempting to do at this moment.

A comprehensive bill? You bet. Rifle shots, targeted? You bet. We have to do it now and should do it now—H-2B, H-2A, critical to America's workforce and food supply now, not this fall or this winter or next year. We almost collapsed the raisin industry in the Central Valley in California last year. Why? Because Social Security was doing its work and checking Social Security numbers. And 72 percent of them were mismatches. That is a phrase for "illegal." The Senator from California knows it. She has admitted she has a major problem in the heart of America's agricultural food basket.

Shame on us for not having the time to deal with the problem and deal with

it forthrightly, honestly, and fairly. I am willing to subject my work to amendments, if the Senator from California wants to bring all of the amendments she can. I would hope she would target it to those specific two, the AgJOBS bill. She is right about misdemeanors, but I am only following the current Federal law, the current law for immigration. I haven't changed it at all. If she doesn't like it, she will bring amendments, and maybe we can adjust that a little.

I have worked with the Senator from California. I am not disagreeing with the premise of some of her arguments. But if she wants to throw the whole baby in with the bath water, then she had better be careful because she will collapse her agricultural economy if we make a misstep.

We are doing something right now that is critical to America and to America's culture. We are trying to control our borders. We are trying to apprehend and deport those in our country who are illegal. We ought to do that. I have voted for everything along the way. But as we work to get all of this done and clean up the inheritance of the last 20 years of bad law or law that wasn't enforceable—and we learned all about it in a post-9/11 environment—we have to remember one thing: As we do the right things, we have to do all of it the right way or we will collapse certain segments of America's economy because we destroyed the workforce that is out there at this moment, toiling in America's agricultural fields or in America's processing plants, working hard to take money home to their children and wives—not here, dominantly in Mexico. Some here.

That is the reality that I bring to the floor, and I am very willing to debate. I hope we can get into that debate later on today.

When you think about the Cornyn-Feinstein resolution, that this is not the right thing, then when is it? Twelve hundred days from now, 1,300, 1,400 days from the day that America awoke to the problem as America's people were killed and our trade center fell and our Pentagon was attacked? That is the reality. We are doing all the right things. We are moving in the right direction. But let's make sure that as we do, we do it in a package that doesn't start collapsing segments of our industry or mistreating people who work hard for themselves and for the American economy.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Georgia.

MR. ISAKSON. I thank the Senator from Texas for allowing me a few moments to speak about this issue.

If we read the preamble to this proposed amendment, it says it is a sense of the Senate that the Congress of the United States should not delay the appropriation to our men and women in harm's way by having a debate over immigration policy. It could just as

easily say it is the sense of the Senate that the Congress should not delay a comprehensive immigration reform debate which is the reason we have the problem today.

I have a great respect for the Senator from Texas. I understand why this amendment has been put together because, as the Senator has said, there are a lot of us who have been trying for 3 or 4 days to figure out a way to bring about a meaningful debate on comprehensive immigration reform. I am taking this opportunity because I want to make points not on behalf of the Senator from Georgia but on behalf of the 9 million people in Georgia I represent.

Those points are as follows: REAL ID is not an immigration issue. It is a national security issue. By the time we get to the end of this debate and the conference, it should be a part of this package.

No. 2, I have the greatest respect for the Senator from California and the Senator from Idaho and the Senator from Texas and the distinguished chairman of the Judiciary Committee, the Senator from Pennsylvania. I wouldn't disregard for a second the amount of work that has gone into the comprehensive immigration laws of this country, trying to bring about fundamental change. However, as of this date, in the 3 and a half plus years since 9/11, the Congress has done little to address some major issues. For a second, I would like to address them.

As I do, I want you to know I am a second-generation Swedish American. Because of this great country, my grandfather emigrated in 1903 in the potato famine. My father was born in 1916. My grandfather wasn't naturalized until 1926. Because of this Constitution, I am in the Senate today. I respect the legal immigration process. I also despise those who tend to judge books by covers and categorize people by their ethnicity or their look or say: They are an illegal alien. We have delayed so long in dealing with securing our borders, enforcing legal immigration and seeing to it there are consequences to bad behavior, the American people have lost confidence in the government to actually do what the Constitution expects us to do.

Think about a few things for a second. We have talked about agriculture. We are spending money enforcing the adverse effect wage rate on the onion farms of south Georgia. We are spending money enforcing a law that actually would induce a farmer to think about hiring undocumented workers rather than documented workers because it is going to cost him \$2, \$3, or \$4 an hour more to hire the documented worker, and we don't have the enforcement people to enforce our borders. How in the world can we justify trying to enforce that which induces the wrong thing to happen?

We have seen our health facilities, our educational facilities—I chaired the Georgia Board of Education. I

spent more time providing Spanish-speaking teachers for our State, and bilingual programs, which I am proud of. I want to educate every one of them. I helped write No Child Left Behind. But as the flood and the flow continues and the suspicion continues that we fail in Washington to recognize the crisis we have in this country, a crisis that is causing some of our citizens to take actions that worry me deeply, it is my responsibility on the floor of this Senate to represent the people of the State of Georgia.

I respect the Senator from Texas and this amendment. I understand why it is here. If we get about the business of a feeding frenzy, of taking some of the points I have mentioned and the Senator from Idaho has, we may delay, but somehow, some way we need to send the American people the clear signal we get it. We are going to have comprehensive reform. We are going to have a comprehensive debate, and it is going to be sooner rather than later.

I will disagree, I am sure, as will others with me, on where we need to go. But disagreeing on how we get there and getting there are two different things. We no longer have the luxury. Our States, our school systems, our hospitals, our farmworkers, and our people no longer have the luxury or the patience for us to delay any longer.

In my State of Georgia, there is an old saying: If you want to get the mud out of the stream, get the hog out of the spring. Procrastination on dealing with the delicate and difficult issues of comprehensive immigration reform have muddied the water in America and will do great harm if we don't hurry up and take the 8, 3, 4, and 6 years of work that has been done in committees and move forward with comprehensive reform.

I believe the Senator from Texas is trying to use this as a foundation for that to happen. I understand the Senator from Idaho's frustration which I have shared. I hope if my remarks contribute anything, it will be to send a message: Regardless of whether we agree on the specifics, let us no longer delay in dealing with the single largest domestic issue to the people of the United States and that is comprehensive immigration reform and rewarding legal immigration and getting our arms around illegal immigration.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wanted to make a brief response, both to the Senator from Georgia and the Senator from Idaho. One of the reasons why I think it is so difficult to look at a broken immigration system is because our immigration system is so big. America takes more immigrants in its regular immigration quota a year than other industrialized countries put together.

If you take that and you take all of the other programs, H-1B, H-2B, the L visas, and all these other visas, it adds

up to about 5.5 million people a year who come into our country under one visa or another. It is an enormous job to look over this whole breadth and scope of immigration programs and make the necessary changes.

I think one logical change is if a quota of people coming from Mexico is perhaps too small, people have to wait too long; therefore, there is a huge illegal immigration problem. Nonetheless, we are a nation of laws. If we have the law, we should follow the law. So I am one who believes reform should be done, but in the name of reform I don't believe we should pass a bill quickly on an appropriation bill without going through the necessary steps to adjust it and amend it in the committee.

Let me make a point in response to the Senator from Idaho, and I am pleased that he is a great expert on California agriculture. Since he is, he will know that the great bulk of the workforce is illegal. That workforce has been there for a very long time. I would accept a bill that provided for some adjustment of a workforce that had worked in agricultural labor for 3 years, that had been in California doing it, could show prior work documentation and be vouched for by employers.

According to this bill that we are going to have on the floor—and I assume people feel it is going to sweep through—you only have to work for a hundred days—that is, 575 hours—in 12 months and you are eligible for your family coming, for a temporary green card; and then if you work another time, you get a permanent green card.

Well, this is going—mark my words—to be a huge magnet. When I discuss this with people, they say: There is an eligible date. Look at it here. Do you think people across the border know the eligible date? All they know is they have to be here and work for a hundred days, so come on over. They come over and you cannot find them and they don't go home. What happens is the numbers build up, the people in southern California find people camping in their backyards, in their gullies, and in the parks; there is no housing, the schools are overcrowded, and then people go to the ballot with an initiative. That is what happened in 1994 when proposition 187, unconstitutional as it was, passed. Polls show that if put on the ballot today, it would most likely pass again.

So I have tried to be constructive. I have proposed amendments that have been rejected by the authors in the House and the Senate. I am on the Immigration Subcommittee. Why do any of us serve on a subcommittee, then, if a bill of such enormous dimension—this could be the largest immigration program in history. It could bring millions of people into this country. The workers, their spouses, their minor children are all permitted.

We should know what we do. Now, a hundred days of work, 575 hours of work—if I were on the other side, I

would say I can sneak across and get a hundred hours of work, then I can bring in my family and I will have a green card. It is nirvana.

For my State, it is perhaps different—Texas might be the next State, and then Arizona—in terms of sheer numbers and problems. When the President proposed his plan, let me tell you that apprehensions at the border in February went up 14.2 percent; the next month, March, 57.8 percent; April, 79.6 percent. So the call was out there, and people thought, aha, and they tried to come across the border to get into the country. The same thing will happen.

That is why it is important that we figure a way to prevent that from happening. I will provide for an adjustment of status for people who have worked in agricultural labor for a long time, for a substantial period of time.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. For a nice question or a mean one?

Mr. CRAIG. I have never been mean to the Senator from California, nor has she to me. She obviously makes very important points. None of those have been disputed and none of them have been dismissed out of hand. California is a unique situation. Texas is a unique situation. My State of Idaho has a large number of undocumented during the year, but it is equal to one county in the Central Valley of California. I understand that.

I don't understand California agriculture as well as the Senator from California, but I spent a good deal of time down there because I work on a broad variety of issues dealing with California and water. California has a very real problem. The Senator has a right to be concerned and alarmed. Any amendments she would wish to offer that are viewed as constructive I will take a very hard look at to make sure that what we do works.

Yes, we have a January 1, 2005, date. I will not get into the details of my bill. We will debate that. So the rush of the border would already have had to occur. But it hasn't. It has increased simply because there is a demand for workers in this country.

If the Senator wants to help me shape that more, I am willing to listen to that and see what we can do with amendments that deal with the misdemeanor issue she is concerned about and a time certain. None of us wants to create a rush at the border. What we want to create for California and the rest of the country is a legal workforce that is there, real, and honors those here for 3, 4, 5 years, who are married and have families here. We say: Go back to Mexico, and you may get back across the border.

Mrs. FEINSTEIN. Mr. President, I think I have the floor. I was waiting for the question.

Mr. CRAIG. The question is quite simple: Offer your amendments, and I will take a serious look at them. You make very important issues for your State and many other States, and I

hope you will do that in a fair and responsible way, as you have always been on this issue.

Mrs. FEINSTEIN. I thank the Senator.

Mr. CHAMBLISS. Will the Senator yield?

Mrs. FEINSTEIN. Yes.

Mr. CHAMBLISS. Mr. President, I happen to agree with her 100 percent. She is exactly right. Not only are we going to see a flood of illegals coming across in greater numbers than what we have today, we are going to see status under the AgJOBS bill, which is pure and simple amnesty. But you are also going to have somewhere between 8 million and 13 million illegal aliens who are here today having the opportunity to become legalized. Just the fact that we don't know, as the Senator has alluded to, how many there are, with the difference being between 8 million and 13 million, that tells you how big the problem is.

So I happen to agree with her, and I will simply tell her we are going to have an alternative—Senator KYL and I—to the AgJOBS when we get to that. The Senator is exactly on target relative to these folks who are going to line up at the border.

Mrs. FEINSTEIN. If I may conclude my discussion, and then I will yield the floor to Senator CRAIG. He mentioned raisins. The last time I looked, it took 40,000 workers in California to harvest the raisin crop in 4 different counties. Most of these are illegals. Most of these have done it year after year. They also go from crop to crop to crop, as we know.

The key is to take care of, in my view, the people who are already here and working and are a part of this. The demand for the agricultural jobs comes every time the employer sanctions are carried out. Then suddenly the agricultural industry says we are for bringing more people in from other countries. I think we have to find a way to have a workforce that is known, identifiable, reasonably and well paid, that can get housing, can send their children to school, that work in this industry. Probably one-half of the agricultural workforce—I would say 600,000 workers—is illegal. These are the 600,000 who I believe we should be concerned with—not opening the border to bring in more but to find a way that they then can become a responsible part of the workforce. That is where I am, because I admit that is a need.

This bill does not do that. This bill sets up a different program and does not relate to people who have been here for years working in agriculture. They may be very good citizens. They probably are. Some of them own their homes, they have children, they are responsible. They have a tough life, true. I think this can be handled. But what has happened is there is a set mentality that the bill has to be this way because we have 60 votes, and we are going to keep it this way. That is a problem and, therefore, that mentality

does not let it go through Immigration, does not let amendments have exposure in committee.

Virtually everybody here who is arguing is a member of the Judiciary Committee. That is where we ought to be debating it instead of on the floor passing a piece of legislation of which no one—no one—knows the absolute effect.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Arizona.

Mr. KYL. Mr. President, before the Senator yields, may I ask two quick questions? Will the Senator from California respond? First, the Senator from California is the ranking member on the Terrorism and Homeland Security Subcommittee of the Judiciary Committee, which I chair; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. KYL. Mr. President, let me ask the Senator another question. She talked about the probability of thousands and thousands of illegal immigrants being attracted to come into the country who are not here now. The Senator from Idaho said we will have a cutoff date.

Was the Senator from California, in raising that concern—which I believe to be an absolutely legitimate concern—perhaps talking about section 101(D)(1)(c) of the bill of the Senator from Idaho which actually invites former lawbreakers to return to the United States? In other words, illegal immigrants who have formerly worked in U.S. agriculture.

Mrs. FEINSTEIN. Mr. President, can the Senator give me a page?

Mr. KYL. I do not have the page. It is a section that permits former immigrants, who worked here illegally in agriculture but have since returned to their home, to return to our southern border and apply for the special status that is set up in the bill the Senator from California described earlier in order to file a preliminary application for status as temporary permanent resident if they appear in designated ports of entry with an application that “demonstrates prior qualifying employment in the United States,” and then could be granted admission to the United States by the Department of Homeland Security.

That is question No. 1. Is that one of the areas in which additional illegal immigrants would be attracted to come into this country?

Mrs. FEINSTEIN. Absolutely. Additionally, this bill gives this special temporary green card to people with two misdemeanors on their record. I have discussed this with the authors in the House, and they do not want to amend it. My own view is there should be no misdemeanors. Why should somebody who broke a law coming here be able to break two more laws and get special consideration? We all know misdemeanor laws vary. We know there are misdemeanor drug laws, there are misdemeanor battery laws, misdemeanor theft laws, misdemeanor

driving under the influence—there are all kinds of criminal misdemeanors. To say someone who broke the law who came here illegally, who was illegally employed, can have two misdemeanors on their record and have a special status is something I do not understand. Yet I have implored them for a substantial period of time, and they do not want to change.

If we had a chance to discuss this in the Judiciary Committee in a markup, this would be brought out, and we could debate it back and forth. People could say why they want it, we could say why we do not think it should be included, and there would be a vote. At least a bill would have been vetted by a committee process.

Mr. KYL. Will the Senator from California yield for another question?

Mrs. FEINSTEIN. I will be happy to yield.

Mr. KYL. Under the provisions we talked about before, which would attract any number of illegal immigrants—and by the way, that is not a term I throw around negatively because they would, in fact, have to say they were illegal immigrants in order to gain entry into the United States. They would have to say they were working illegally in the United States before and now they want to come back. That is the provision of law under which they could actually come back into the United States.

Based on the experience of the Senator from California with the use of illegal documentation—Social Security cards, driver's licenses, all of the other items of identification that can be counterfeited—would the Senator have a view as to whether this particular provision could be taken advantage of by those wishing to commit fraud? Of course, people already committed fraud in this country by coming here illegally and using those same fraudulent documents to gain employment in the first place. Isn't this one that would engender a lot of fraudulent applications to come back into the United States?

Mrs. FEINSTEIN. This has been and is today a huge problem. Additionally, there is another problem on our southern border, if the Senator would give me a minute, and that is, other than Mexicans crossing the border being picked up illegally. I think it was up to 88,000 last year. So it is shooting up. And when you ask the Border Patrol about it, they say this is very difficult for them to sort it all out because there is such pressure on the border. The Senator, certainly, in Arizona knows that pressure on the border.

The fraud of documents is well known. One can buy a driver's license, a Social Security card fraudulently in places that I know of and have seen it happening in southern California for \$15 or \$20. So that is not a big problem.

Mr. KYL. If I can conclude by saying to the Senator from California, I think the proposal she and the Senator from Texas have set forth to put this very

important but very complicated discussion off and not have this debate on the bill that helps to fund our war operations in Iraq and Afghanistan is a very good proposal which I intend to support.

As she knows, I welcome the opportunity to work with her and also with my good friend and colleague from Idaho, the Senator who is proposing the bill, which I would oppose but would hope to be able to work on if we have the opportunity to do that outside the kind of activity in which we are engaged on the supplemental appropriations bill.

So I do support the proposal of the Senators from Texas and California and hope the body will approve it.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I enjoyed this debate. It has been over 15 years since the Senate has had real debate on immigration. The Simpson-Mazzoli bill was the last time the Senate seriously looked at this issue, and it took us years to finally come up with a bill. We have not seriously addressed changes since.

There have been dramatic changes across America in immigration patterns, the number of people coming in, certainly issues of national security. If there is ever an issue we should address in comprehensive fashion, it is immigration.

I commend President Bush. We do not see eye to eye on many things, but I commend him for his leadership in suggesting we debate immigration. His proposal is not one I embrace in its entirety, but it at least opened the debate. Many were critical of it, some lauded it, but at least he had the courage to step up and say: Let's debate it.

Now comes the sense-of-the-Senate resolution that says we have an important bill before us relative to the war in Iraq, Afghanistan, and tsunami relief. Senator CORNYN, a Republican of Texas, and Senator FEINSTEIN, a Democrat of California, have said this bill should not include immigration provisions. I think they make a compelling argument, an argument which I joined with several of my colleagues in making to Senator FRIST a few days ago, who cosigned a letter—about 20 of us—to Senator FRIST saying we do not believe one specific immigration provision should be part of this conference or this appropriations bill, and that relates to the REAL ID.

For those who have not followed the debate, the REAL ID is a provision adopted in the House of Representatives which will be part of this appropriations bill when the House and Senate come together to decide the final work product.

My concern, I say to Senator CORNYN and Senator FEINSTEIN, is that the garlic is in the soup. There is no way to take it out at this point. Those of us who may be conferees will walk into

that conference committee and face an immigration issue, a very serious immigration issue, a very controversial one.

So the suggestion we not add any immigration debate to this bill may be a good one to expedite it but like it or not we are going to face what I consider to be some very onerous provisions of the REAL ID bill which will be part of the conference committee report. If it is appropriate, I will retain the floor but ask the Senator from Texas about that particular circumstance. Would the Senator from Texas be open to modifying his sense of the Senate resolution in paragraph 4? In paragraph 4, the Senators from Texas and California say Congress should not short circuit the discussion of immigration by attaching amendments to this supplemental outside of the regular order.

Would the Senator from Texas modify his resolution to add the following language: Or by including provisions relating to immigration in the conference report to this supplemental appropriation bill?

If the Senator would, then I think what we are saying is we want a clean bill. By this vote, we are instructing our conferees to not come back with REAL ID, to not come back with any immigration provision.

I understand the predicament Senator MIKULSKI faces in Maryland. Senator REED of Rhode Island faces a similar predicament when it comes to Liberian refugees. Senator SCHUMER faces an emergency situation with victims of volcano on an island who are now going to be deported back to tragic circumstances.

The point I am making is we cannot escape the reality immigration is on top of us and coming at us, but if we want this bill—because of its special nature—to be clean, I ask, without yielding the floor, if I could, through the Chair, if the Senator from Texas would be open to including this language in his sense of the Senate resolution?

Mr. CORNYN. Mr. President, I appreciate the question of the Senator from Illinois. For purposes of the Senate bill, it is absolutely critical, as I think the debate has shown so far, we not get into other unrelated issues to the war supplemental, but we ought to leave it up to the conferees. Obviously, we are going to have to deal with the House provisions, and that is going to be worked on in the conference committee I do not expect to be on.

This is the agreed language Senator FEINSTEIN and I have been able to come up with, and it covers the area we have some control over; that is, what happens in the Senate on the Senate's version of the bill.

Certainly, I will want to work with the Senator from Illinois and all my colleagues to try to make sure we enact comprehensive reform. Part of the problem is we are taking this in a rifle-shot fashion when I think what we

need to do is deal with it comprehensively. That is the reason for the resolution.

Mr. DURBIN. I thank the Senator from Texas. I do apologize. I mentioned to him a minute or two ago that I was going to ask a question along these lines. I would like to ask Senator CORNYN and Senator FEINSTEIN to consider this. Because if we do not go to that next step and say we are not going to let the House bring in an immigration provision in conference and tie our own hands and not offer important immigration provisions in the Senate, that is unfair. If we are going to make this an immigration and appropriations bill, then we have some pretty important issues to consider.

Senator KENNEDY has an issue with Senator CRAIG—Senator MIKULSKI, so many do. If this conference is going to be open and the REAL ID provisions come rolling out at us, as difficult as it is, as time consuming as it may be, we have no recourse but to open the issue and open the debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, reluctantly, I rise to oppose this amendment, even though I agree with many of the principles expounded in it. No. 1, to my colleagues on the Judiciary Committee, the sponsors of this amendment, I too, agree, that our immigration system is badly broken. It does fail to serve the interests of our national security and our national economy. We do need to enact the critical appropriations bill to support our troops and help people who are tsunami victims and some other important aspects. At the same time, though, the sense of the Senate really should be directed to the House. For someone like myself, who has a very serious crisis because of something called the H-2B visas, which I will explain in more detail at another time, the fact is this is our only vehicle.

Immigration, as an issue, was introduced in the supplemental appropriation bill in the House of Representatives with an enormously controversial and prickly concept, the so-called REAL ID card. I know that my colleague from Tennessee has proposed some creative solutions to deal with that. I know that others want to talk about this. If we can talk about comprehensive immigration reform, I am all for it. But the question is, When are we going to do it? It has been over 1,000 days since 9/11, and we have not done comprehensive immigration reform, nor have we looked at what aspects of immigration are working. There are certain aspects that are working in certain areas of the guest worker programs; college students who come from abroad, who work in our country and learn in our country and go back home, what a tremendous exercise in public diplomacy the so-called J visas have accomplished.

In my own State, the H-2B visa, which allows guest workers to come



into this country for seasonal employment to take jobs that are certified as not being held by American workers, with a mandated return to their own home, has worked well. It has worked so well that the cap is now bursting at the seams.

I am all for comprehensive immigration reform, but No. 4 says Congress should not short circuit the discussion by attaching amendments to this supplemental. We have had no discussion. There is nothing to short circuit. What we do have is a series of, as Senator DURBIN has said, these rifle-shot crisis situations.

It would be wonderful if we could have comprehensive reform. I look forward to participating in that comprehensive reform. For now, we have to look at those States that are facing a crisis because of the flawed immigration system we have now and for which we are advocating modest and temporary legislative remedies.

I salute our colleagues. They have a big job ahead of them. Anybody willing to undertake comprehensive immigration reform needs to be encouraged, supported and worked with. We need elasticity in this bill to deal with those things related to our economic viability. In many ways, a guest worker program that is working needs to be addressed, and I hope to offer an amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I know the Senator from Maryland has worked hard on this need, as well as the Senator from Idaho, and there are other Senators who feel deeply we ought to deal with immigration. Most of us have been to Iraq, Kuwait and Afghanistan. We know what this bill is about. This bill is about whether the National Guard men and women from Tennessee have sufficient armor when they go into a combat zone. This bill is about whether we are going to get some money to the new Palestinian Authority in time for them to be a success so we can begin to have the hope of peace in the Middle East. This bill is about whether we are going to fully fund a building in Baghdad for our thousands of Americans who are there so that they do not have to live in trailers and live in a more dangerous situation than most Americans outside of this country live in today in the world.

This bill is about whether our combat men and women have rifles that are sufficiently modern to defend themselves. This bill is about whether we have safe trucks. Eight hundred of them convoy from Kuwait City to Baghdad every day, carrying supplies to our men and women. This bill is about whether we have helmets for our combat men and women. We should not be slowing it down. It is amazing to me that we would slow down a bill to support the men and women in Iraq and Afghanistan, 40 percent of whom have

left their mortgages, left their homes, left their children, left their jobs. They are dealing with all the issues we have to deal with from half a world away. Plus they are being shot at, and some of them are being killed. We are slowing it down because we have failed to address one of the single most important issues facing our country, and so we come up in the middle of a debate about whether to support our troops and say, okay, let us stop for a few weeks and argue about immigration.

For Heaven's sake, we should pass the bill to support our troops immediately. We agree with it. We all support it. We support them. We all agree with it. Then we should get about the business of dealing with the point of the Senator from Maryland, and the proposal of the Senator from Idaho, and the work Senator KYL and Senator CORNYN are doing.

This is a country that is unified by a few principles, our country, the United States of America. We are not unified by our race or by our ethnicity or anything else such as that. Among those principles is the rule of law. We go all around the world meddling in other people's business, preaching about the rule of law, yet we have 10 to 15 million people living here who violate the law by being here. We should not tolerate that, and we should be embarrassed as a Congress that we have failed to deal with it.

This is not a problem Tulsa can deal with or Nashville can deal with. This is a flat out responsibility of the Congress to solve, and we should solve it. We are dumping on the backs of local communities the cost for schools to educate people who are illegally here. Ten years ago in the schools of southern California, a third of the children in the largest school district in California were here illegally. Somebody has to pay for that. Emergency rooms in hospitals have many people there who are here illegally. That is straining the budgets of cities and states.

So here we are in the middle of a debate about how quickly we can support our military effort, and somebody over in the House of Representatives attaches a bill that might make some sense but—No. 1, it slows down our bill for the troops, and No. 2, it probably imposes upon states a big unfunded Federal mandate which most of the people on this side of the aisle were elected to stop. I mean there are 190 million state driver's licenses. What the House provision would do is say we are going to turn the state driver's license examiners into CIA agents so they can go around and check and see whether we have any terrorists coming in, and then we are going to make them pay for it as well. Here is one more unfunded mandate.

Then the third thing we are doing, and we have not even considered through our committees whether this is the best way to do it, is determining if we are going to have in effect a national identification card. In fact, that

is what the REAL ID Program is. It is a national identification card. They say it is not, but what else is it? We have taken an ineffective national identification card, the driver's license—I have mine right here. We have taken an ineffective national identification card, and we are trying to turn it into an effective one. We know it is ineffective because we know that the terrorists in 9/11 all had driver's licenses. I know it because mine expired in 2000, and every time I hand it over at the airport they never turn it over to see if it was renewed to the year 2005. We have an ineffective identification card, and the House wants us, without going to a single committee, to pass a big unfunded mandate, slow down help for the troops, and pass an unfunded national identification card. That is what we are being asked to do here, and I don't think we should do it. That is not the right way to go about it.

I fully support the idea of allowing the Democratic and Republican leadership to agree on a certain time soon where we address this massive challenge to our credibility as a nation, as a nation of the rule of law, and where we create an immigration system we can be proud of. For me, that means a generous program to allow people to come here and work legally, and then we enforce the law. For me, that means we do not have a double system where we have 500,000 or a million people who stand in line to get in, and then we have another million people who break the line to get in. That is not right.

We also need to address questions about whether we are going to continue to require people who apply for student visas to say when they apply that they never intend to live here. Of course, many of them do and we want many of them to. Do we not want the brightest scientists in China or India to come to the University of Alabama or Tennessee and then stay here and create jobs to keep our standard of living up? We are getting more competition from those other countries for these bright people. We need to look at that. Then we need to look at enforcement.

But this is not the way to do business here. I strongly support the Cornyn resolution. I do not want to see the REAL ID legislation or any other immigration legislation slow down money for the troops, put an unfunded mandate on state and local governments, and prematurely, without careful, comprehensive consideration, try to deal on this floor with one of the greatest issues we have to face.

We should pass the Cornyn resolution. We should pass the bill supporting the troops. Then we should set aside a specific time, face up to it, and do our job of reforming the immigration laws.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oklahoma.

Mr. COBURN. Mr. President, I rise to speak on this issue because I think we find ourselves fixing the wrong problem

again. The real consequence of not having addressed the immigration problems in this country means we have problems with crops that are not going to be harvested because we don't have workers. But the time to do that is right after we finish this bill.

The American people as a whole do not want an amnesty program, but they will accept an amnesty program if we fix the border, and we have not secured the border. We have not done what we need to do in this body, in the House or through the administration, to enforce the laws of this country.

It is illegal to come here and we should not reward illegal behavior. But you can't even begin to address that until you say we are going to enforce closing this border for national security purposes but also for competitive purposes.

We need to have a national debate about how many people need to come in and supply an effort to our Nation as we grow. All of us in this country are immigrants except for the Native Americans. We would welcome others. But it has to be done legally. We have not done our job as bodies of the legislature, along with this administration, of first securing the border.

We have a national priority in terms of our own safety. Yet the politics of securing that border plays into every Presidential candidate who is running today. It becomes a political football. The fact is, for our children we need to secure that border to make sure we don't have terrorists coming across. "60 Minutes" 3 or 4 weeks ago showed a person from Croatia who came across the border illegally, became a legalized citizen after that, and ran guns and exported them throughout our country. He had access illegally to get here in the first place. That is not what we want.

We need to solve agricultural problems. I come from an agricultural State. But the American people are not going to accept an amnesty program, I don't care how you design it, based on any type of emergency, until we fix the obligation we have, which is to control that border. We have the capability to do it. We have the technology to do it. We have the money to do that and a lot less of other things if we would do it. If we will in fact control that border, then we can solve every other problem that comes about.

There are going to be consequences of not fixing the problems that were outlined by Senator MIKULSKI and Senator CRAIG, but rightly so, because we haven't done our job. There are consequences when we do not do our job. So I support Senator CORNYN's resolution fully. We need to come back and address this. We need to address every other area, but we have to first recognize that the American people are counting on us to do what is right in terms of securing the border. As long as we continue to ignore that because it is not politically acceptable in certain circles, then we are not going to

fulfill our duty to protect this country. When we have troops fighting in Iraq and in Afghanistan and around the rest of the world, and we will not even enforce the law when we have the capability to do it, we dishonor them.

So this is fixing the wrong problem. It is a problem, yes, but it is not the real problem. The problem is the border and controlling the border. I am convinced the American people are compassionate and will deal with any other issue of those who are here and those who want to come here in an orderly fashion, once they have the confidence that we have the border controlled. But we fail to do that at our peril, we fail to do that at the peril of the safety of this country, and we fail to do that at the peril of these areas that need specialized help in a short period of time. We are going to suffer the consequences of that and we should.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I point out the debate we have been seeing here in the last couple of hours to me proves the point, and that is this is a complex, difficult, contentious issue, but one that, from what I heard over the last couple of hours, we all agree needs to be addressed.

Indeed, that is what the resolution says. It says Congress must engage in a careful and deliberate discussion about the need to bolster enforcement of and comprehensively reform our immigration laws. That is what the resolution says.

I know different Senators have different proposals. As I have said, I think the idea is we ought to take up those in the Judiciary Committee in the Subcommittee on Immigration, and we ought to be able to come up with a bill we can present to the chairman of the Judiciary Committee and other members. We can have it marked up. With the help of the majority leader, we can get it to the floor of the Senate.

It would be my hope we can do that within the next few months. I agree. We have a serious problem that has long been neglected in this country, and it cries out for an answer.

Lest any of our colleagues think this is not a complicated matter, let me point out some of the matters contained in the AgJOBS bill alone which I think are very controversial. For the benefit of our colleagues who are listening, this will give them a flavor of why I say this is such a complex and contentious issue.

For example, although the AgJOBS bill purports to be a temporary worker program, it does not have a requirement once people are qualified to work in the program that they actually return to their country of origin. I believe this component of a work-and-return concept is absolutely critical to any program we might justly call the temporary worker or guest-worker program.

Second, one of the provisions of the AgJOBS bill is entitled "Eligibility for

Legal Services." This provision requires free, federally funded legal counsel be afforded through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency. That is right. The bill requires that the taxpayers pay the bill for these allegedly temporary workers to apply for legal permanent residency under the bill, creating a new legal right and a new right to legal representation for which the American taxpayers are going to be called on to pay.

Third, the AgJOBS bill allows farm workers who are currently working illegally in the United States to cut in line in front of workers who have followed legal avenues from the start, violating the principle the Senator from Tennessee articulated so well just a few moments ago.

Next, AgJOBS grants amnesty to as many as 3 million illegal aliens who say they have worked recently in U.S. agriculture, along with their family members.

So not only are we talking about a worker program, we are talking about bringing families and children, which common sense tells us will decrease the likelihood that at any such time in the United States part of this program will indeed be temporary. Indeed, it is more likely that they will stay beyond the span of their visa and live here permanently.

One other point: Since virtually all of the special agricultural workers granted the one-time-only amnesty enacted in 1986 left agricultural work as soon as they had their green cards on hand, AgJOBS puts illegal aliens on the path to U.S. citizenship in a two-step process.

First, illegal aliens would be granted temporary residence and indentured for up to 6 years to ensure they continue to work in agriculture in the short term. Next, once these newly legalized aliens are provided records of labor, they will be granted lawful permanent residence and then U.S. citizenship—amnesty, in a word.

Next, AgJOBS also freezes wage levels for new legal H-2A, nonimmigrant, agricultural workers at the January 2, 2003, level for 3 years following enactment. The undocumented worker can then stay in the United States indefinitely while applying for permanent resident status. They can become citizens so long as they work in the agricultural sector for 675 hours over the next 6 years. Their spouse and minor children are permitted to accompany them and will also earn legal permanent residency status.

I point that out because, as the Senator from Georgia, Mr. CHAMBLISS, said earlier, I doubt there are many of our colleagues who understand the content of this AgJOBS bill. If the Senator from Idaho chooses to offer it as an amendment, we will take up that debate. Senator FEINSTEIN and others may offer some amendments, and I hear that Senator KYL and Senator

CHAMBLISS may have amendments of their own. Who knows how many other amendments may be working out there related to AgJOBS or maybe a more comprehensive bill to deal with this issue generally.

But that makes the point. While we are spending time talking about immigration reform, we are not getting to the job that ought to be highest on our list of priorities; that is, making sure this emergency supplemental appropriations bill passes without undue delay and without getting bogged down in other matters, such as immigration reform.

In the end, I join with all of my colleagues and say it is past time we deal with immigration problems in this country comprehensively. We have no border security now. We do at the bridges, but between the bridges it is come and go almost as you please. While many people come across the border to work, we understand as human beings people who have no hope or no opportunity where they live will do almost anything to be able to provide for their family. Be it human smugglers or be it self-guided trips across the Rio Grande or across our northern border, it is relatively easy to get into the United States, and the terrorists who know that can exploit that and hurt the American people.

We also know once people get to the interior of the United States, there is virtually nonexistent law enforcement. We have inadequate detention facilities along the border, particularly in my State. They have to let virtually all of the detainees, the immigrants who come across illegally, go on their own recognizance and ask them to come back for a deportation hearing 30 days later. It should be no surprise that in some instances 88 percent of them don't show up and simply melt into the landscape—many of them working in places all across the country doing jobs Americans, perhaps, do not want.

But this demonstrates how badly broken our immigration system is, our border security, our interior enforcement, and the reason we need to deal with this comprehensively, not just with a Band-Aid.

I hope my colleagues will join Senator FEINSTEIN and me and the others who have spoken already in support of the Cornyn-Feinstein resolution and let us have a debate about immigration—comprehensive immigration reform. But let us not do it at the time when our troops are fighting the war on terror and delay them getting the equipment and the resources they need in order to do the job they volunteered so nobly to do on our behalf.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Texas for his leadership on this issue and for his remarks, which I share.

We have a problem with immigration and law enforcement and national security. Some of these are just security

and some of these involve economic and social policy that impact the immigration question.

I believe we can do better. We need to give serious thought and consideration that we can do much better. We have people who want to come here. They want to do so in the right way. They will be assets to our Nation. We ought to identify those people and try to accommodate as many as possible, consistent with our own national interest.

The Senator from Texas mentioned what is happening in enforcement today. It is a nightmare. There was an article this morning in the Washington Times about 13 illegals stopped by the local police officers. They were released on bail. They are asked to show up for a hearing on their deportation. The statistics show, as the Senator just said, as much as 80 percent of those people do not show up. They become absconders. It makes a mockery of the system in many ways.

I have some ideas about this issue. I have some beliefs that local law enforcement has been confused in what their authority is. We ought to encourage them to be helpful in this area instead of discouraging, as the current laws today are.

I have done legal research on that particular question, but this is a Defense supplemental bill to fund our soldiers in the field in combat. It is not the time to debate comprehensively one of the most complex and sensitive subjects this country has to deal with. That is fundamental.

The Sensenbrenner language offered early on on the intelligence bill was not accepted. He was given a promise he could move it on the first vehicle that came out of the House. This is more a national security issue, by far, than an immigration bill. It is simply a tool to create a system by which we can readily identify those who are not here legally.

It is my observation, having been around this Senate now for some years, that you can propose and do a lot of things on immigration. Unless you come up with something that works, that has the actual potential to be an impediment to illegal entry into our country, that is when we start hearing an objection. It seems those proposals never pass.

I am prepared not to offer anything on this bill. I am prepared not to debate on this bill. My opinion is, the Sensenbrenner language is fine. I am all for it. But we are at this point looking at the potential of a flood of amendments dealing with immigration on a bill that ought to be funding our soldiers.

The distinguished Senator from Mississippi who chairs the Appropriations Committee must be looking in wonder at a bill that is supposed to be funding our troops that has now become a massive debate on this issue of immigration. It is unfortunate.

Senator FEINSTEIN and Senator CORNYN have agreed on an amendment

that makes sense. It is something I can live with. I believe it would move us forward.

The legislation being proposed, such as AgJOBS, is not good to begin with, and I would probably oppose it, but more than that it is not the time to deal with it. We are just not ready. It is not appropriate.

I urge our colleagues to support this, and not only support it but to vote down the amendments that deal with immigration so we can get this bill done. We will have to deal with immigration. It is a critical national issue. It is important to our country. We are a nation of immigrants. We do not want to stop people from coming here. We do have needs in many areas and sectors of our economy.

I am not sure the Republic is going to fall if we do not have enough custodial helpers in some resort somewhere. I am not sure the Republic is going to fall if there is not somebody to turn the bedspreads down at night and put a little piece of chocolate on the pillow. In fact, we have a lot of American citizens who do that work dutifully every day. If they were paid \$2 or \$3 more an hour, maybe they would do it; maybe there would be more American citizens prepared to do that work.

We grow cotton in my home State of Alabama. If we bring twice as much cotton into the United States as was brought in the year before, will we not drive down the price of cotton, or any other commodity?

We need to be of the understanding that unlimited immigration to meet every possible need some business person says is critical is not the right policy for our country just because they say it is critical. They have an interest. They want cheap labor. We are now talking about matters that go beyond this supplemental.

I am proud of our soldiers. I have been to Iraq and Afghanistan three times. They are performing exceedingly well. We have a responsibility to support them. This legislation does that. It is our responsibility to move it forward, get it to them, remove this uncertainty, make sure the Defense Department has what they need to support our troops because we are holding their feet to the fire. If they are not doing what the Defense Department ought to be doing, we are going to be on them, and we need to give them the resources so we can legitimately complain if our soldiers are not being adequately supported. We will make a mistake if we get off that purpose and move toward a full-fledged debate on immigration.

I support the Cornyn-Feinstein amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—61

|           |           |             |
|-----------|-----------|-------------|
| Alexander | Domenici  | Murray      |
| Allard    | Ensign    | Nelson (NE) |
| Allen     | Enzi      | Pryor       |
| Bennett   | Feinstein | Reid        |
| Bond      | Frist     | Roberts     |
| Brownback | Graham    | Salazar     |
| Bunning   | Grassley  | Santorum    |
| Burns     | Gregg     | Schumer     |
| Burr      | Hagel     | Sessions    |
| Byrd      | Hatch     | Shelby      |
| Cantwell  | Hutchison | Smith       |
| Chafee    | Inhofe    | Specter     |
| Chambliss | Kyl       | Stevens     |
| Clinton   | Landrieu  | Sununu      |
| Coburn    | Lincoln   | Talent      |
| Cochran   | Lott      | Thomas      |
| Coleman   | Lugar     | Thune       |
| Collins   | Martinez  | Vitter      |
| Cornyn    | McCain    | Wyden       |
| DeMint    | McConnell |             |
| Dole      | Murkowski |             |

NAYS—38

|          |            |             |
|----------|------------|-------------|
| Akaka    | Dorgan     | Levin       |
| Baucus   | Durbin     | Lieberman   |
| Bayh     | Feingold   | Mikulski    |
| Biden    | Harkin     | Nelson (FL) |
| Bingaman | Inouye     | Obama       |
| Boxer    | Isakson    | Reed        |
| Carper   | Jeffords   | Rockefeller |
| Conrad   | Johnson    | Sarbanes    |
| Corzine  | Kennedy    | Snowe       |
| Craig    | Kerry      | Stabenow    |
| Crapo    | Kohl       | Voinovich   |
| DeWine   | Lautenberg | Warner      |
| Dodd     | Leahy      |             |

NOT VOTING—1

Dayton

The amendment (No. 372) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment. I understand my colleague from California is seeking a unanimous consent.

Mrs. FEINSTEIN. Yes. If I may, Mr. President, I thank the Senator from Maryland. I ask unanimous consent—

Ms. MIKULSKI. This is without yielding the floor.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to be recognized following the Senator from Maryland for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator from Maryland yield?

Ms. MIKULSKI. Yes, without losing my floor privileges.

Mr. STEVENS. Mr. President, I have an amendment at the desk. It is an amendment to restore the money for the initial design of the building for the National Intelligence Director. When this bill was before our committee, we reduced that amount at the time, but when the budget was presented, there was not a nominee for that office.

Yesterday, I presented to the Intelligence Committee Ambassador Negroponte to be the new NID and discussed this issue with him. It has become somewhat controversial. This amendment I have would restore the money our committee reduced in the line that deals with the NID. It has been cleared.

I ask unanimous consent that this amendment be set aside temporarily so we may consider this amendment. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am now confused. As a courtesy to the chairman of the Subcommittee on Defense Appropriations, I yielded to him so he could offer his technical amendment. Are we now laying my amendment aside?

Mr. STEVENS. No.

Ms. MIKULSKI. Where are we?

The PRESIDING OFFICER. The Senator is offering a unanimous consent to set aside your amendment and to bring up his, which has not been done yet.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, in the interest of following the regular order and engaging in senatorial courtesy, we really need order. I could not hear the distinguished Senator and, therefore, was concerned that we were having some slippage in our process.

AMENDMENT NO. 386

Mr. STEVENS. Mr. President, I thank the Senator from Maryland. I have a request to set aside the Senator's amendment temporarily while we consider this amendment which has been cleared on both sides. It restores the original budget request for NID.

I offer the amendment on behalf of myself and the Senator from Hawaii, and I ask unanimous consent that the amendment be brought before the Senate, that it be adopted, that the motion to reconsider be laid upon the table, and that we go back to the amendment of the Senator from Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUE, proposes an amendment numbered 386.

The amendment is as follows:

On page 149, line 10 strike "\$89,300,000" and insert "\$250,300,000" and on line 11 strike "\$20,000,000" and insert "\$181,000,000."

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to and the motion to reconsider is laid upon the table.

The amendment (No. 386) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized. The Chair will enforce order.

AMENDMENT NO. 387

Ms. MIKULSKI. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, and Mr. STEVENS, proposes an amendment numbered 387.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants)

On page 231, between lines 3 and 4, insert the following new title:

#### TITLE VII—TEMPORARY WORKERS

##### SEC. 7001. SHORT TITLE.

This title may be cited as the "Save Our Small and Seasonal Businesses Act of 2005".

##### SEC. 7002. NUMERICAL LIMITATIONS ON H-2B WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this section and the amendments made by this section.

##### SEC. 7003. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended by adding at the end the following:

"(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

"(i) The amount of the fee imposed under subparagraph (A) shall be \$150."

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking “H1-B and L” each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking “section 214(c)(12)” and inserting “paragraph (12) or (13) of section 214(c)”;

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking “(H)(i)” each place it appears and inserting “(H)(i), (H)(ii),”; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end “or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)”.

(2) CONFORMING AMENDMENT.—The heading of such subsection 286 is amended by striking “H1-B AND L”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

**SEC. 7004. SANCTIONS.**

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

“(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

“(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

“(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

“(iii) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

“(iv) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

“(v) In this paragraph, the term ‘substantial failure’ means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

**SEC. 7005. ALLOCATION OF H-2B VISAS DURING A FISCAL YEAR.**

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 7002, is further amended by adding at the end the following new paragraph:

“(j) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.”.

**SEC. 7006. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H-2B NON-IMMIGRANTS.**

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998

(title IV of division C of Public Law 105-277; 8 U.S.C. 1184 note) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following new subsection:

“(d) PROVISION OF INFORMATION.—

“(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of House of Representatives of the number of aliens who during the preceding 1-year period—

“(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

“(B) had such a visa or such status expire or be revoked or otherwise terminated.

“(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

“(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

“(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

“(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

“(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.”.

Ms. MIKULSKI. Mr. President, today I rise to offer an amendment that is desperately needed by small and seasonal business throughout the country. This amendment is identical to the bipartisan bill I introduced in February called Save Our Small and Seasonal Business Act. It is designed to be a 2-year temporary solution to the seasonal worker shortage that many coastal States and resort States are facing.

I wish to acknowledge the need for comprehensive immigration reform, but right now small and seasonal businesses all over this Nation are in crisis and need our help. These businesses need seasonal workers before the summer begins so they can survive.

For years, they have relied on something called the H-2B visa program to meet their needs. This is a temporary guest worker program. But this year they cannot get the temporary labor they need because they have been shut out of the H-2B visa program because the cap has been reached. This is a program that lets businesses hire temporary guest workers when no American workers are available.

This amendment modeled after the Save Our Small and Seasonal Business helps employers by doing four things:

It temporarily exempts the good actor workers—those who do return home after they have worked a season—from the H-2B cap. Employers apply for and actually name those good compliant workers who have complied with the law, they name them so that they are allowed them to reenter for this temporary period.

It protects against fraud within the H-2B program.

It provides a fair and balanced allocation for the H-2B visas.

And it reports to Congress how the program is working and where the beneficiaries are.

I urge my colleagues to help small businesses by passing this amendment and save these businesses and actually save thousands of American jobs.

Thousands of small and seasonal businesses are facing a worker shortage as we approach the summer. In my home State, this is primarily in the seafood industry. This year, because the cap of 66,000 workers was reached earlier in the year, my small businesses have been effectively shut out. We have had a lot of summer seasonal business in Maryland on the Eastern Shore and Ocean City, people working on the Chesapeake Bay, and many of these businesses use the program year after year.

First of all, they do hire American workers. They hire all the American workers they can find. But at this time of the year, we need additional help to meet seasonal demands. Because that cap was reached for the second year in a row, I might add, these employers are at a disadvantage. They cannot use the program. What will it mean? It will mean that some of our businesses will actually have to close their doors.

My amendment is supported on both sides of the aisle. It does not change existing requirements for employers. Employers cannot just turn to the H-2B visa whenever they want. First of all, employers must try vigorously to recruit those workers. Then they must demonstrate to the Department of Labor that they have no U.S. workers available. Only after that are they allowed to fill seasonal vacancies with the H-2B visas.

The workers they bring in often participate in the program year after year. They often work for the same companies. They do not stay in the United States and are prohibited by law from doing so. They return to their home country, to their families, and their U.S. employer starts all over the following year.

Let me just say this: Right now in certain villages in Mexico, there are many women—mothers and their adult daughters, aunts—who are packing their bags. They are ready to come back to Maryland where they have come before to work in Clayton Seafood or Phillips Crab House, which so many of you have enjoyed in your visits to the bay, or Harrison’s seafood. Some of them have been in business 100 years. Some of them are major employers. A lot of college kids work their way through college working at Phillips Seafood, but Phillips Seafood

needs these guest workers to help these kids and to help the restaurant stay open.

These workers are not taking the jobs, they are helping American workers keep their jobs and American companies keep their doors open and, I might add, to the delight of many of you here, to the delight of people who enjoy our products, and to the delight of the people who collect the sales tax, Social Security, and so on from those American workers.

I know we need comprehensive reform, but while we are waiting for that, I have a temporary fix. By the way, working with my colleagues on both sides of the aisle, we looked for regulatory relief. We consulted with the Department of Labor and the Department of Homeland Security. Secretary Chao could not have been more gracious, more cooperative, more forthcoming, but when it came down to it, her legislative counsel said, you need to change the law. She could not change the regulations on this cap.

What does my amendment do? First, my amendment continues to protect those American jobs. It is a short-term fix because it is a 2-year solution. This amendment will only be in place for 2 years. So it allows this comprehensive reform to go forward.

What it does is exempt returning seasonal workers from the cap. That means there are no new workers. It means those people who have worked before and have gone back home are the only ones who would be eligible. In other words, in the last 3 years, they had to have worked here under the law, come in under the law, and returned home as the law requires. So it is not new people. It is not an amnesty program. It is an employment program for them and for us. These workers receive a visa, and it requires their employers to list them by name. So in all probability, they will return to the same employer. Then, at the end of the year, they will do it all over again. Remember, the only people eligible are those who have used the program in the past—the employer and the actual person coming in.

I worry about fraud, too. So we have an antifraud fee that ensures that Government agencies processing the H-2B visa will get added resources in their new sanctions. The bill creates a fair allocation of visas. Some summer businesses lose out because winter employers get all the visas. This will make the system more fair. We also simplified the reporting requirements.

I could give example after example of businesses that have been impacted. Clayton Seafood started over a century ago. They work the water of the bay supplying crab, crabmeat, and seafood. It is the oldest working crab processing plant in the world, and by employing 65 H-2B visa workers they have been able to retain all of their full-time workers.

The Friel Cannery, which began its business over 100 years ago, is the last corn cannery left out of 300. When they

could not find local workers, they turned to the H-2B visa. Since then, that business is open and thriving. Each year this program helps the company not only maintain its workforce, but 75 Americans have good paying full-time jobs in accounting and marketing and other areas, and it keeps 190 seasonal workers going and 70 farmers who would not have a cannery to go to are also able to keep their jobs.

So that is what my legislation is all about. It is a quick and simple legislative remedy. It has strong bipartisan support. It is realistic. It is specific. It is immediate, achievable, and does not exacerbate our immigration problem.

Every Member of the Senate who has heard from their constituents, whether they are seafood processors, landscapers, or other people in resort areas, know the urgency in their voice. They know the immediacy of the problem. Our companies feel urgency. They feel immediacy. They feel desperation.

I urge my colleagues to join me in passing this amendment and keeping the doors of American companies open while we also maintain control of our borders.

Mr. KENNEDY. Will the Senator yield for a question?

Ms. MIKULSKI. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I, first, commend Senator MIKULSKI, and I see the Senator from Maine, Ms. COLLINS, and others who have been interested in this issue. Am I right that the earlier numbers by and large have been taken up primarily by winter tourism? The time for application comes at the time of the year when great numbers are taken up for the winter tourism, which has happened historically, and what we are trying to do with the Senator's amendment is to treat the summer tourism and the summer needs on an even playing field, as they are in my own State, which are primarily smaller mom-and-pop stores and some very small hotels that need that. So this basically creates a more even playing field, as I understand, between those who would be taken in the wintertime and those who need the help in the summer, No. 1; am I correct?

Ms. MIKULSKI. The Senator from Massachusetts has accurately assessed what has created the crisis: that given the time of application and when they want the people to work, the winter needs then take up practically all 66,000. We acknowledge our colleagues who do need the winter help, but we need their help for the summer help. You are also correct that my legislation would create a more even playing field between the two and, again, this is a temporary legislative remedy while we assess the entire situation of the need for comprehensive reform, how we keep American jobs, how we keep American companies open, and yet retain control of our borders.

Mr. KENNEDY. Am I correct this is a rather modest increase in terms of the demand? In my own State, the numbers

are approximately 6,000 for the summertime. The numbers the Senator has are going to be nationwide, so this is very modest based upon the need. The final point which the Senator has emphasized, but I think it is very important to underline, is these are people who have been here before, who have gone home and came back and therefore have demonstrated over the course of their life that they return back home and are in conformity with both the immigration and labor laws that exist today.

Ms. MIKULSKI. The Senator, again, has made an accurate assessment. This bill is only applicable to employers and guest workers who have complied with the law. If a worker has not been here before and they have not demonstrated that they have complied with the law, not returned to their home country, they would not be eligible. That is why I say we need to help American business but keep control of the border.

Mr. KENNEDY. I thank the Senator for her response and urge my colleagues to give strong support for her amendment.

Ms. MIKULSKI. I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as many are well aware, the cap in current law on the number of H-2B visas is too restrictive, and it's imposing needless hardships on many businesses that rely on seasonal workers to meet the heavy demands of the tourism industry. Once again, these small industries are facing a crisis this summer if the number of visas isn't increased immediately. Senator MIKULSKI's timely amendment will provide the much-needed relief they deserve, and I urge the Senate to support it.

For several years in a row, the cap has created a crisis for the tourism industry in Massachusetts and nationwide. Countless small, family-run businesses depend on the ability to hire more workers for the summer season, and they can't possibly find enough U.S. workers to fill the need. Without this amendment, many of these firms can't survive because the seasonal business is the heart of their operation.

This fiscal year's allocation of 66,000 visas was exhausted just a few months on into the year. Senator MIKULSKI will make about 30,000 additional visas available, and it should be enacted as soon as possible, so that these firms can make their plans for the coming months.

Obviously, this amendment is only temporary relief. It should be achieved through comprehensive immigration reform. We all know our immigration system is broken, and many other reforms are needed as well. The Nation needs a new immigration policy that reflects current economic realities, respects family unity and fundamental fairness, and upholds our enduring tradition as a Nation of immigrants.

Enacting these other reforms will take time—time we don't have if we want to rescue countless seasonal employers around the country. Senator

MIKULSKI's proposal provides the immediate relief needed to enable employers counting on H-2B workers to keep their doors open this summer, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in strong support of the amendment offered by my colleague along the Chesapeake Bay, Senator MIKULSKI. This amendment would make minor, temporary changes to the non-immigrant, seasonal visa program known as the H-2B visa program. This program allows small businesses in the Commonwealth of Virginia to hire temporary workers for non-agricultural jobs.

As many of my colleagues know that for each fiscal year, which starts on October 1, there has been a statutory limitation on the number of admissions to the U.S. under the H-2B visa category since 1990. In 2004, the statutory cap of 66,000 H-2B visas was reached on March 9. This year the H-2B cap was reached much earlier on January 3.

As a result of reaching this cap for the second year in a row, many businesses, mostly summer employers, have been unable to obtain the temporary workers they need because the cap was filled prior to the day they could even apply for the visas. Consequently, these businesses have and will continue to sustain significant economic losses unless Congress acts.

Our amendment helps fix this problem by making common-sense reforms to our H-2B visa program that will allow our small and seasonal companies an opportunity to remain open for business.

First, the bill would reward good workers and employers. Those workers who have faithfully abided by the law for one of the past 3 years would be exempted from the cap. This exemption will help keep together workers and employers who have had a successful track record of working together.

Second, the bill would make sure that the Government agencies processing the H-2B visas have the resources they need to detect and prevent fraud. Starting on October 1, 2005, employers participating in the program would pay an additional fee that would be placed in a Fraud Prevention and Detection account. The Departments of State, Homeland Security, and Labor could use these funds to educate and train their employees to prevent and detect fraudulent visas.

Finally, the bill would implement a visa allocation system that would be fair for all employers. Half of the 66,000 visas would be reserved for employers needing workers in the winter and the other half would be reserved for companies needing workers for the summer. This provision would allow both winter employers and summer employers an equal chance to obtain the workers they desperately need.

Without these modifications, these employers will continue to struggle in their efforts to find the necessary em-

ployees to keep their businesses running. Many in the seafood industry in Virginia have come to my office, looked me straight in the eye, and told me that their businesses are not going to make it another year if something is not done soon. Only through passage of this amendment can this detrimental cycle be interrupted and these businesses can be saved.

Unfortunately, the only real opposition to this legislation is "perception." I have the utmost respect for those in this Chamber that may not fully support this amendment. Their perception on this matter stems from good principles. Illegal immigration has grown to be a substantial problem in this country, especially in the area of domestic security, and I agree that changes must be made to make our policy work.

However, the temporary changes this amendment proposes does not belong in the debate on immigration or illegal immigration. The H-2B program is a seasonal, non-immigrant worker visa program. In fact, it may be one of the last programs we have to provide a legal, seasonal workforce for our small businesses, allowing them to fill the gaps where domestic workers cannot be found.

More importantly, these changes do not belong in the immigration debate because they deal with an economic issue. Over 75 percent of net new jobs in this country come from small businesses. This amendment proposes changes to help save our small businesses. In many parts of the country, for every temporary H-2B worker that is hired, two more full-time domestic workers are sustained.

There are some criticisms of this program which I am sure some will raise. Let's take a moment and examine some of these mis-perceptions surrounding the H-2B program.

H-2B employers do not do enough to recruit U.S. workers. They could just pay more. Virginia employers have not found this to be the case. The Department of Homeland Security and the Department of Labor set stringent guidelines on recruitment and wages.

First, U.S. employers must prove that they have exhausted all opportunities to hire U.S. workers. One H-2B employer agent in Virginia, who assists employers in this process, have told me that they have already spent in excess of \$250,000 on such ads on behalf of its 300 plus clients for the 2005 employment season. This was out of over 6,000 job openings for 300 plus employers in 30 plus States.

Even after this campaign, they only succeeded in locating and hiring less than 50 U.S. workers who expressed an interest in the H-2B jobs. They were all hired, but unfortunately, less than half of these workers started work and even less completed the entire season.

In regard to the seafood industry, over the past 15 years, Americans have slowly withdrawn from their workforce. It is common for motivated

workers to make \$75-\$100 dollars in a 7-hour day shucking oysters, picking crabs, or packing the product. Those in the seafood industry have told me that despite this earning potential, "frequently U.S. workers will work for a day or two and then never return. It is difficult to function on the uncertainty of our local work force, but we never give up on them."

In addition, the Department of Labor requires H-2B workers and U.S. workers to be paid the same wages for the same work. Additionally, all of the same taxes taken out of a domestic worker's salary are taken out of the H-2B worker's salary; however, the H-2B worker by regulation are ineligible to receive any benefits from the taxes withheld from their paycheck.

The H-2B program encourages illegal immigration; or, there's nothing more permanent than a temporary worker, a long review of the management of this program reveals otherwise. The employers have successfully ensured that the workers return to their home country. If they do not, employers are not able to participate in the program next year, and neither are the workers. Most consulates in their home countries require the workers to present themselves personally to prove that they have returned home.

Believe me, I am a strong supporter of efforts to help those Americans who want to work get the skills they need to be successful in the workforce. But these H-2B workers are not taking jobs from Americans, they are filling in the gaps left vacant by Americans that do not want them. Like I have said before, this program actually helps to sustain domestic jobs.

The future success of the H-2B visa program rests on the ability of businesses to participate in it, but right now, many will be denied access to the program for the second year in a row. The amendment introduced today helps fix this problem by focusing on three main objectives to help make the H-2B program more effective and more fair.

These seasonal businesses just cannot find enough American workers to meet their business needs. And ultimately, that is why this program is so important. Without Americans to fill these jobs, these businesses need to be able to participate in the H-2B program. The current system is not treating small and seasonal businesses fairly and must be reformed if we want these employers to stay in business.

I congratulate the distinguished Senator from Maryland for raising this issue. I have joined her as a cosponsor on this amendment. In my some quarter of a century that I have been privileged to be in the Senate I have watched in my State the loss of the textile industry and the furniture industry. Peanuts have disappeared, tobacco has disappeared, and now the seafood industry is disappearing.

The distinguished Senator from Maryland and I have paralleled our careers, and my recollection is there used

to be about 150 oyster-picking and crab-picking small businesses in my State. If there is one thing about this legislation, it is for the small person operator, man and woman. I doubt if there is now more than 40 out of the 150 or more picking houses remaining in my State, and these folks have come to see me. They are very quiet when they come in. They do not have any high-paid lobbyist. They come up themselves. Maybe they take off their overalls, but by and large they come right in the office in a very courteous way and they do not beg for anything. They just want to have an opportunity to remain in existence. Most of these small operations have been handed down from family to family.

Throughout Virginia, we take great pride in the Virginia crabcake. We are in competition with the Maryland crabcake. Now, I know Marylanders will come over and steal the Virginia crabmeat to put in their crabcakes. I say to my dear friends, the two Senators from Maryland, they know that, but pretty soon there may not be any crabmeat left for the crabcakes from either State to put on their menus.

Likewise, the oysters have declined, but that, I cannot say, is entirely due to this labor situation. It is more because of the Chesapeake Bay and the problems we are having with the balance of nature. The oysters are disappearing for a variety of reasons, but I will not get into that. Then a number of the seafood houses that provide bait for fishing are dependent on these workers.

I ask my colleagues to listen carefully to two letters that were written to me, and then I will yield the floor. The first one is from Cap'n Tom's Seafood. He states:

My name is Tom Stevens, I am owner and operator of Cap'n Tom's Seafood located in Lancaster County in the Northern Neck of Virginia.

By the way, that is one community I have tried to help because those counties have great pride, but they do not have as strong an economy as they once did. He continues:

I'm located less than 30 minutes from businesses like The Tides Inn, Indian Creek Yacht Club and Windmill Point. These businesses are large consumers of seafood. I also have many customers in the Richmond area.

When I opened my plant, for years I tried to operate using local help. However, it has become much harder to operate. Not only is the local force scarce and unreliable, but the younger generation is not interested, in learning the trade. On holidays, such as Thanksgiving and Christmas when oysters are in demand, shuckers are nowhere to be found.

As you are aware, in this business, oysters must be shucked and crabs must be picked soon after they arrive. I have tried to get local help by advertising in the local newspapers and through the employment agency without success. I finally got help through the H2 B workers program.

Speaking for myself and several others in the industry, we could not operate our businesses if it weren't for the H2 B program. I can not emphasize enough how important this program is for the seafood industry of

Virginia. These workers are reliable, hard working, and with excellent work ethics. Their main purpose is to earn money to improve their lives and the lives of their families in their country of origin. I pay them as I do my other workers, not the minimum I was told I could, but the top of the pay scale for the seafood industry. I deduct their taxes including Social Security and pay unemployment, even though they do not claim it.

I sincerely hope that you will continue to support the H2 B workers program and to strengthen the program by increasing the quota. The future of the seafood industry is dependent entirely on this program. It is important that our industry remains strong and healthy for the welfare of the State of Virginia.

Sincerely,

TOM STEVENS.

The other letter is from Bevans Oyster Company, Inc., in Kinsale, VA, a small community:

I am Ronald Bevans, President and owner of Bevans Oyster Company. My company relies on the Federal H2-B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started the program in 1996.

And on and on it goes. One sentence in here stands out:

Our seafood business cannot survive without the H2-B workers.

Mr. President, I strongly support this amendment, and I hope my colleagues in the Senate will join with me to help these small and seasonal businesses by agreeing to this amendment.

I ask unanimous consent to have this letter and other letters printed in the RECORD and yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEVANS OYSTER COMPANY, INC.,  
Kinsale, VA, January 6, 2005.

Hon. JOHN W. WARNER,  
U.S. Senator,  
Washington, DC.

DEAR SENATOR: I am Ronald Bevans, president and owner of Bevans Oyster Company, Inc. My company relies on the federal H-2B temporary foreign visa program to provide the legal, reliable, seasonal labor which my company needs in order to stay in business. We have used this program since 1996 to obtain fish packers from March 1 to December 31. Our workers, for the most part, return to us each year. Some of them have been with us since we started utilizing the program in 1996.

This year we requested 110 workers. Our filing agent, Mid-Atlantic Solutions, tells us that our application is still at the U.S. Department of Labor awaiting certification to be used for the next step of the approval process. Although our application was filed as early as legally possible, it did not get to the Citizenship and Immigration Service (CIS) before the H-2B statutory cap of 66,000 annual visas was met. Consequently, we will be unable to employ our H-2B seasonal workforce.

Our seafood business cannot survive without the H-2B workers.

I make every effort to hire American workers for these positions, and have Americans working here wherever possible. However, our experience has been that there is an in-

sufficiency of Americans willing to do the type of work required for these positions. Generally those who are hired quit within the first week. We have a loyal local workforce, but they are getting older and their number diminishes each year.

It is critical that you understand that without the help of our foreign workers Bevans Oyster Company will have to shut down and the American workers currently employed here will lose their jobs as well.

I opened Bevans Oyster Company in 1966 and have owned and operated it myself ever since. Over the years, my business has continued to grow. When the need arose for additional workers and I could not find reliable help in my area, I turned to the H-2B program to meet my seasonal labor shortfall. With the help of this program over the past eight years, my business has grown and flourished and is now a vital part of the Northern Neck community. This business is my life. By suspending the H-2B program, the government is not only preventing me from accessing my employees, it is taking my livelihood and everything I have worked so hard to build.

The lack of seasonal workers for our fish season will have a domino effect on many other people and industries. Our fish suppliers will either have to find a new market for their bait fish or dock their fishing boats. Our customers, which are located along the entire east coast and along the Gulf from Florida to Texas, who have come to depend on us over the years for their bait needs, will suffer from the lack of product, causing their customers to suffer, and so on.

As you well realize, the Virginia seafood industry is located in rural counties and provides many needed jobs for U.S. citizens in these communities. The loss of Virginia seafood H-2B workers will lead to the loss of the American jobs the seafood industry provides.

I go to extraordinary lengths to ensure that my workers are legally employed and that U.S. workers jobs are protected. The wages I pay are above the prevailing wage for this area and industry. I make sure my workers are housed in decent, safe, and affordable housing. These workers have told me that the opportunity to work in the U.S. has improved their quality of life as well as that of their families and their home communities. The money earned and returned to their home country is an important contribution to that economy. Workers build homes and educate their children. Without the H-2B program, they would never realize these dreams.

My company desperately needs some type of relief from this cap. I don't know all the answers. All I know is that we need our workers, and they need us. Please keep the H-2B program operating until a comprehensive solution to the immigration issue is reached. Thank you for your consideration of this request.

Sincerely,

RONALD W. BEVANS.

LITTLE RIVER SEAFOOD, INC.,  
Reedville, VA, March 24, 2005.

To: Mr. John Frierson.  
From: J. Gregory Lewis.  
Re: H-2B Program.

DEAR MR. FRIERSON: Thank you for your phone call yesterday regarding the H-2B program and our needs as an employer of immigrant workers. This program has enabled us to meet our reasonable labor needs for many years. Our seasonal jobs, (crab picking, crab packing, etc.), are manual, repetitive tasks—unskilled labor.

Regarding our questions about payment to these laborers, when Little River Seafood,



Inc., hires an employee, that person, local or immigrant, completes the necessary W-4 federal withholding form and the State of Virginia withholding form. We withhold the required social security tax, and federal and state taxes on all employees. In addition, we pay the employer's share of social security tax and pay the federal and state unemployment taxes.

Though our pickers are guaranteed a wage of \$5.25 per hour, which is the prevailing wage, they are paid by the "piece rate" per pound of crabmeat. Most pickers end up earning between \$7 and \$9+ per hour depending upon how quickly they learn, their level of ability, and ultimately, their productivity. All pickers, immigrant or local, are paid in the same way.

As our older local employees have retired, the younger locals do not seek employment in this field. Because we are stabilized by the use of legally documented H-2B seasonal workers, we are able to continue in the crab processing business, make crab purchases from our local watermen (some of whom are students), and keep our local workers employed, some on a year-round basis. Without the H-2B employees, our ability to stay in business, keep our local workers employed, and contribute to the economy would be severely jeopardized.

Regarding your questions as to recruitment of employees, Little River Seafood advertises each year, prior to the crabbing season, in our local newspapers. Response to these advertisements has been minimal. Our local Virginia Employment Commission is made aware of our employee needs, and of course, because we are in a small, rural community, these needs are also spread by word-of-mouth. Local response is almost nil. We have employed a few students during the summer for miscellaneous jobs around the plant, and, as mentioned, we do make crab purchases from students that are crabbers learning the business.

We certainly appreciate your phone call and your interest in learning more about the necessity of keeping the H-2B program in effect allowing countless small businesses in the United States to remain in business and continue to contribute to the economy.

Please let us know if we can provide you with further information.

J. GREGORY LEWIS,  
*President.*

GRAHAM & ROLLINS, INC.,  
*Hampton, VA, January 12, 2005.*

Hon. JOHN W. WARNER,  
*U.S. Senate,*  
*Washington, DC.*

DEAR SENATOR WARNER, I am in receipt of your letter dated January 10, 2005, concerning H-2B workers for Graham & Rollins, Inc. My two sons and I appreciate your timely action in pursuit of reconsideration of our petition, however painful, it apparently is not to be. It is a shame that a small fourth generation family business must vanish because our government has become so impersonal to communicate a simple omission of just two names before closing the door and rejecting our petition irrespectively of the consequence from such an act. We have examined all options to save the company concluding that we must by June or July obtain the Mexican H-2B skilled laborers we have trained over the years. As a final act towards this object, we ask if you would consider sponsoring a bill similar in nature to the one you introduced last year exempting returning H-2B visa holders (beneficiaries/workers) from the annual FY 66,000 H-2B program cap, or raising the cap to accommodate the needs of entitled businesses that have been left out. We have reason to believe there are many small businesses such as our own faced

with the same crisis, and congressional action is required to keep those institutions whole. The H-2B program was created to accomplish the work not being done in this country because of unavailability of the domestic work force to meet the needs of our work place.

Taking away the employees we have trained and become dependent upon through this program is like sabotage. This cannot and must not happen to the many small companies like Graham & Rollins affected by the reduction of the visa cap. I trust and hope you are in agreement and will expedite congressional action to accomplish exempting the returning H-2B workers or raising the cap. Please let us know as soon as possible if you are supportive of this request and if we can help by contacting our other representation.

Sincerely,

JOHN B. GRAHAM, Sr.

R&W MARINE CONSTRUCTION, INC.,  
*Cobbs Creek, VA, March 29, 2005.*

Hon. JOHN W. WARNER,  
*U.S. Senate,*  
*Washington, DC.*

R&W Marine Construction, Inc. has been operating in Virginia for 38 years as a small construction business specializing in marine construction and excavation. We engage in heavy construction consisting of building piers, bulkheads, riprap (stone) installation along shorelines and landscaping work. This type of work is not easy and requires hard physical labor.

Over the years of operating my business, I have continuously dealt with labor problems. It is very difficult to hire domestic workers that are dependable, reliable and are willing to do this type of work. I have hired some excellent supervisors over the years but they can not work without the laborers. We have frequently advertised in the local and regional newspapers and also contacted the employment agencies for job referrals. We pay competitive rates and offer benefits to all domestic workers. We accept employment applications year round and only receive a very small quantity. Most of these applicants will not accept a labor position or are not suitable for this line of work. R&W Marine also recruits students for summer time positions.

We were introduced and participated in the H2B Program in 2000. It has been very successful to the livelihood of my business and has created the workforce needed to meet the work demand. The pay rates for the H2B workers are specified by the U.S. Department of Labor. The wages are subject to all state and federal taxes. These workers arrive in the spring and return to their country within 10 months of their arrival. They always return home within this time frame. I have never had a problem with a worker not abiding by the immigration policies. R&W Marine has had many of the same workers return consecutively for the past 5 years and are all legal workers.

If businesses are not able to acquire the number of H2B workers needed to operate their business, they may be forced to hire illegal workers. This will increase the problems for the Immigration Service of keeping up with who will be entering the U.S. and the security of our country. Also, if businesses are forced to shut down or minimize their services they provide to the public, there may be a significant reduction in our American domestic workforce.

I thank you for your time and consideration in this matter. Please continue to gain support for the H.R. 793, the H2B cap fix bill.

Sincerely yours,

RICHARD E. CALLIS,  
*President/Owner.*

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, if I could just say preliminarily, in order not to split the united front in support of this amendment, I am not going to get into a debate between the quality of the Virginia crabcake and the Maryland crabcake, although I must note it is the Maryland crabcake that has always held preeminence in that discussion.

Mr. WARNER. Mr. President, I object to that statement.

Mr. SARBANES. I commend my colleague from Maryland for a very innovative and carefully reasoned response to a crisis situation. This is a clear example of legislative craftsmanship that addresses the issue and does it in a way that does not open up a lot of unintended consequences or other possibilities. It does not constitute any major restructuring of the immigration laws or anything of that sort. This is really an effort in a very focused, almost laser-like way, to address this specific problem.

The problem is the following: Under the administrative set up, an employer cannot seek an H-2B visa until within 120 days of when it would be used or exercised. That means that people who need summer employees cannot come in right at the beginning of the year to seek the H-2B visas. What happened, of course, this year is people in the earlier part of the year—the winter people in a sense—came in, and used up all of the 66,000 visas that were available so people who have relied on this program over the years to carry out their businesses were shut out altogether. Of course, that raises very dire prospects for the operation of these small businesses all across the country.

We have underscored the crisis confronting the seafood business in Maryland and Virginia, but innkeepers in Maine, hotel operators in Florida, and businesses all across the country confront similar problems with respect to being able to bring in these H-2B visa workers.

This amendment maintains all the requirements that existed previously. In other words, the employers must still demonstrate they have sought to find American workers for these jobs. That is a current requirement. That is maintained in this amendment.

These employers, some of them, have made extraordinary efforts to do that, visiting college campuses, attending job fairs, exploring every possible way they can find workers. Many have gone well beyond what I think has been previously required in terms of meeting that requirement. But, they have not been able to find the workers. They need these H-2B workers.

What my colleague, Senator MIKULSKI, has done—I think in a very measured way—is, if you previously brought in an H-2B worker and that worker has then gone back at the end of the limited time during which they were permitted to come into the country to do

the job, you can, despite the fact we have now bumped up against the ceiling, bring that worker or workers that helped you meet your employment situation back in. No new worker would come into the country under this provision who had not been here before as part of this H-2B program. So, in effect, you are saying to someone: Look, you have come for the last 2 or 3 years as part of this program, so it is going to be available to you to come again. And you say to the employer seeking to bring them, you can bring back that workforce in order to meet your work situation.

In that sense, it is not an expansion of the general availability of the program. You are not broadening who can partake of it. You must have previously participated in the program in order to be able to come in again. I think that is a very innovative way to address the situation. It will enable these small businesses to function.

It is important to recognize that it is not the functioning of the particular business involved, but it is the functioning of other businesses, dependent upon the particular business that needs these workers, that will be affected most. If you cannot do the processing of the seafood, then the people down the line who depend on getting that seafood in order to do their business are going to be adversely affected as well. So there is a ripple effect that goes out through the economy which raises the threat of having a substantial economic impact, at least in some areas of the country.

I also want to underscore the amendment, as I understand it—and my colleague can correct me if this is not so—maintains all of the existing penalties that would apply to an employer who might misrepresent any statement on their H-2B petition. In other words, employers would still be held responsible in terms of how they conducted their effort. As I mentioned earlier, they are required to go through all of the necessary measures to ensure they have not been able to find available, qualified U.S. citizens to fill these jobs before they file an H-2B visa application.

This amendment is limited in time. It is limited in scope, but it would address the current crisis situation. It might not totally address it, but we are confident it would do so sufficiently to enable most, if not all, of these businesses to carry out their functions.

I think it does not raise larger questions and, therefore, because it has been very carefully developed, I think it constitutes an appropriate response to the situation we are now confronting. I urge my colleagues to support this amendment. It does the job. It does it in a very direct and focused way, and it will enable us to work through these problems while we await general revisions of the immigration laws.

This doesn't open up that particular path which I know would concern some Members of this body.

I again commend my colleague for very carefully working out an amendment. I know how much he has consulted with people in the administration and colleagues here in the Senate. I very much hope this body will adopt this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief, but at the same time I think what we have all said is very important to this issue. The H-2B class of workers is a critical component to not just the seafood industry of our coasts but to the resort industry of our country. For any of you who have ever skied in the West and met this nice young lady or man who speaks with a Norwegian brogue and they are helping you up and down the ski lift, my guess is they are class 2B. If you have met a young man or woman waiting on tables at a resort, possibly in Sun Valley, ID, they are a class 2B. The reason they are there is because they come, they build a stable presence, they are there for the period of time our resort hospitality industries need them, and it is most important that we have them.

Both Senators from Maryland have already talked about the dynamics of first that employer must seek domestic workers, U.S. citizens, and when that labor supply is exhausted they must seek elsewhere because they simply need that workforce. They come, they stay, they go home. It is a program that works well.

I am going to be on the floor later debating another program that doesn't work well: H-2A. The reason it doesn't—and it used to years ago in the 1950s; identified the worker and the work necessary and the employer. We had nearly 500,000 in those days of H-2A, known only then as the Bracero Program. It was out of the great wisdom of the Congress, and it has not worked since. This one works.

But what the Senator from Maryland is doing is bumping up the cap a little bit. Why? Because we have a growing economy, and we have a growing need. It isn't a static workforce; it is a dynamic workforce—whether it is the seafood industry, whether it is the hospitality industry, or whether it is a stone quarry mining semiprecious stones in the State of Idaho to be polished and placed in the countertops of high-end kitchens of new homes across America. That is the diversity of this particular workforce.

She has identified it. She has recognized it. It is a cap of 65,000. The cap for 2005 was reached on the first day of the fiscal year. That not only speaks to the need but it speaks to the reality of the problem.

The amendment is very specific. This amendment would temporarily exempt returning workers who have good records and play by the rules from the H-2A cap, protect against fraud for H-2B, protect against fraud in the H-2B program by adding a \$150 antifraud fee,

and on and on. In other words, it has some safety checks in it, but it rewards those who play by the rules—and most do. They come, they work, they go home.

That is not only ideal for our country, it is ideal for these foreign nationals who can benefit themselves and their families by coming here to work for a salary that is, of course, better than the salary they can earn in their own home country and working in conditions that meet all of the standards of our labor laws in this country. That is fundamentally what is so important.

My conclusion is simply this: This amendment provides a fair and balanced allocation system for H-2B visas. Currently, many summer employees lose out as winter employers tend to be the first in line for the B's. That was already expressed, both by the Senator from Massachusetts and by others who have spoken on this issue.

I strongly support the amendment. It is the right time. It needs to be done. We simply cannot wait. This is an issue that is very time sensitive. We can't wait until October to hire folks who are needed the first of May.

I hope that we move it quickly through the Congress and get it to the President's desk.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CRAIG. I yield briefly, yes.

Mr. SARBANES. The Senator made the point that this addresses those workers who have played by the rules. In other words, they have come, they have worked, and gone back. They have met all of the requirements. Of course, they pay taxes while they are here. We know they are here. They are followed and documented.

But I want to add a dimension: It also addresses the employers who have played by the rules by seeking to get their workers through the system legally.

Mr. President, I will read from the article in the Baltimore Sun:

Despite their frustration, the owners say they will not turn to an obvious alternative work force. "I am not going to hire illegals," said one of the owners. "It is against the law."

He made the point that they have done everything legally. This H-2B program is a win-win situation. The workers pay taxes, the Government knows who they are, and they get checked at the border. So you have employers who want to play by the rules and employees who have played by the rules. This amendment focuses on them and gives them a solution to a very pressing problem.

Mr. CRAIG. I thank the Senator from Maryland for bringing that up. What he demonstrates by that statement is a system that works. But he also demonstrates that the other Senator from Maryland has recognized that when pressures build and limits are met, you turn the valve a little bit and let the pressure off and let the legal system work, quite often in H-2A.

Last year, 45,000 people were identified. But 1.6 million are in the workforce. We had a system in H-2A that worked like this, and we were sensitive and constantly working to adjust it. And we wouldn't have an illegal, undocumented problem that we will debate later tomorrow or next week. This is a system that works, but it also is one that we have been sensitive to and have been willing to adjust the cap so everybody can effectively play by the rules and meet the employment needs they have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin my remarks by commending the Senator from Maryland for her work on this very important issue. She and I, along with Senator GREGG of New Hampshire, Senator KENNEDY from Massachusetts, and many of our colleagues, have joined forces in a bipartisan way to address an issue that affects the small businesses in our States.

Many American businesses—particularly those in the hospitality, forest products, and fishery industries—rely on seasonal employees to supplement their local workers during the peak season. That is certainly true in my home State of Maine. We have many seasonal restaurants and hotels that need to greatly expand their workforces during the summer and fall months. Many of them, after fruitless efforts to hire American workers, have found that it has worked very well for them to hire in the past foreign workers under the H-2B visa program. But this year all 66,000 available H-2B visas were used up within the first few months of the fiscal year—in fact, in early January. The Department of Homeland Security announced that it would stop accepting applications for H-2B visas. This creates a particular inequity for States such as mine that have a later tourism season. By the time Maine restaurant owners, hotel owners, and other tourism-related small businesses can apply for these workers, there are no more visas.

My colleagues from Maryland and Idaho have raised very important points. These are workers who often return year after year to the same familiar family business in Maine. When their work is done, they leave and return home to their home countries. They play by the rules. The businesses play by the rules. They are not hiring people who are here illegally. They are hiring people through this special program.

Without these visas, employers are simply going to be unable to hire a sufficient number of workers to keep their businesses running during the peak season. Many of these businesses fear this year they will have to decrease their hours of operation during what is their busiest and most profitable time of year. This would translate into lost jobs for American workers, lost income

for American businesses, and lost tax revenues for our States.

These losses will be significant. We must help them be avoided. That is why I have worked with my colleagues in introducing the legislation upon which this amendment is based. It is the Save Our Small and Seasonal Businesses Act of 2005. It would offer relief to these businesses by excluding from the cap returning foreign workers who were counted against the cap within the past 3 years and to address the regional inequities in the system. It would limit the number of H-2B visas that could be issued in the first 6 months of the fiscal year to half of the total number available under the cap.

By allocating visas equally between each half of the year, employers across the country operating both in the winter and the summer seasons will have a fair and equal opportunity to hire these much-needed workers.

Let me emphasize what, perhaps, is the most important point in this debate. That is, employers are not permitted to hire these foreign workers unless they can prove they have tried but have been unable to locate available American workers through advertising and other means.

As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred. In Maine, as in other States, our State Department of Labor takes the lead in ensuring that employers have taken sufficient steps—including advertising—to try to find local workers to fill these positions. Indeed, that is the preference of my Maine employers. They would much rather be able to hire local workers. Indeed, they do hire local workers, but there simply are not enough local people to fill these seasonal jobs that peak during the summer and the fall.

Comprehensive, long-term solutions are necessary for this and many other immigration issues. But we have an immediate need. The summer season is fast approaching. Tourism is critical to the economy of Maine. But if the tourism businesses are not able to hire a sufficient number of workers to operate their businesses, the economy will suffer and American jobs will be lost. It is exactly as the Senator from Maryland so eloquently explained in her statement.

We need to make sure we act now to avoid a real crisis for these seasonal businesses this summer and fall.

I salute the Senator from Maryland for her work on this. I hope my colleagues will join in supporting this amendment. This vehicle may not be the very best for this proposal, but we do need to act. Time is running out.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Maine for her remarks, along with her and her colleague from Maine for their advocacy on behalf of Maine workers. We know Maine has been hard hit with many issues.

I ask unanimous consent to add Senator DEWINE of Ohio as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I hope the distinguished chairman of the Committee on Appropriations would take my amendment or, at the very least, have an amendment tonight. There needs to be a discussion on how we proceed.

I note there seems to be no one here. I could speak on this bill, I have such passion, such fervor about the need for it that I could speak for an extended period of time, but I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from California is to be recognized following the last debate.

Mr. INHOFE. I see.

Ms. MIKULSKI. Mr. President, my amendment is pending.

The PRESIDING OFFICER. That is correct.

Ms. MIKULSKI. My amendment is pending and I recognize the Senator from Oklahoma wishes to speak. The Senator from California has an amendment.

Mr. INHOFE. Will the Senator yield?

Ms. MIKULSKI. Yes.

Mr. INHOFE. I was going to make a unanimous consent request to have a very short statement concerning S. 359. I recognize your amendment is pending, but I would do that through unanimous consent. This is the Agriculture Job Opportunity Benefits and Security Act.

Ms. MIKULSKI. If the Senator wishes to speak on another matter, perhaps as if in morning business, I have no objection to that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. If I might, how long will this be?

Mr. INHOFE. I respond to the Senator from California, I could do anywhere between 2 minutes and an hour. Your choice.

Mrs. FEINSTEIN. I would object since I have been waiting.

Mr. INHOFE. I can make it very short.

Mrs. FEINSTEIN. Two minutes.

Mr. INHOFE. Three minutes.

Ms. MIKULSKI. Perhaps I could clarify this, Mr. President. The reason I asked for a quorum call, reclaiming my right to the floor, is so the distinguished chairman of the Appropriations Committee and I could discuss how we were going to proceed for the rest of the evening. Therefore, the Senator from California would know how

to exercise her right as the next in line.

So if the Senator from California could be patient for a minute to get clarification, he could be a time-filler. Would that be a good way to do it?

Mr. INHOFE. That would be fine.

Ms. MIKULSKI. It is a klutzy way of talking about it, but it is, nevertheless, where we are.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I will make this very quick. And I appreciate this very much from the Senators from Maryland and California.

Mr. President, I just want to get on the record.

Last summer, I had an intern in my office from Rwanda. I have been active in Rwanda in kind of a mission thing for quite some time. She came to this country 10 years ago after the genocide that was taking place. She went through all the problems in becoming a legal resident. And, of course, she is going to actually become a citizen.

I have been privileged for a number of years to be chosen to speak at the various naturalization ceremonies in Oklahoma. These people go through all of the procedures. I daresay that most of those who go through the naturalization process become better citizens than some who are born here.

Certainly, they know more about the history of this country. That is one of the reasons I have opposed, historically, any type of an amnesty program.

Now, the one that is before us by my very good friend from Idaho has four steps of amnesty in AgJOBS. The first one is a temporary resident status, so that this jobs bill states that upon application to DHS, the immigration status of an illegal immigrant shall—not “will,” not “may be,” but “shall”—be adjusted to lawful temporary resident status as long as the immigrant worked in an agricultural job for at least 575 hours or 100 workdays, whichever is less.

The next step is to take that same person and give them permanent resident status. The third step would be to make an adjustment not only for those individuals coming in but also for the spouses and the minor children. So we are talking about opening that gate for many more people.

Fourthly, the reentry. Now, this means if somebody left the country under any circumstances, they would be allowed to come back and go through this process.

On top of that, another thing I do not like about the legislation is it does have a taxpayer-funded legal services provision in it.

So I just want to get on record and say this is something I do not think is in the best interests of this country.

Mr. President, I do thank the Senator from California and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Reserving my right to object, may I ask what the Senator would like to do?

Mrs. FEINSTEIN. What I would like to do is put forward an amendment. I gather there will be no more votes tonight.

Ms. MIKULSKI. Well, that is what we are trying to determine. That is what I am trying to determine. I would like to have a quorum call.

The PRESIDING OFFICER. The Senator from California has the floor.

The Senator from California.

Mrs. FEINSTEIN. Yes, that is fine. I will not take long. I will just put the amendment in. I will not ask for a vote tonight.

Ms. MIKULSKI. I have no objection.

Mrs. FEINSTEIN. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

Mrs. FEINSTEIN. Mr. President, I want the Senator to know it is my intention to vote for her amendment. I obviously did not want it on this bill, but since it is, it is my intention to vote for it.

#### AMENDMENT NO. 395

(Purpose: To express the sense of the Senate that text of the REAL ID Act of 2005 should not be included in the conference report)

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk and ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 395:

At the appropriate place, insert the following:

#### SEC. \_\_. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

Mrs. FEINSTEIN. I thank the clerk. This amendment is cosponsored by Senators BROWNBACK, LIEBERMAN, ALEXANDER, LEAHY, CLINTON, and BOXER.

As the clerk has read, it is a sense-of-the-Senate amendment. It relates directly to the REAL ID Act. It is the sense-of-the-Senate amendment that attempts to bind the Senate conferees to oppose the REAL ID Act in the conference on this bill. I would like to take a minute to explain why.

First of all, this was presented to the Senate in February. It has not yet been

heard by the Senate Judiciary Committee. And, once again, a very controversial bill will be considered in conference on this bill. It was put in the House bill in a preemptive way. It is there, and we have to deal with it.

I want everyone to know this bill is major in scope in what it does to change immigration hearings and much to do with immigration. It very much tightens the standards for asylum and withholding of removal. It would give judges broad discretion to deny asylum claims based on the credibility of the applicant. And possibly one reason alone could mean a negative credibility finding.

It changes the statutory requirement that an applicant must demonstrate to be granted asylum, making it much more difficult, and it eliminates judicial review by barring a court from reversing the decision of the judge or other adjudicator about the availability of corroborating evidence.

It would give the Secretary of the Department of Homeland Security the ability to unilaterally waive all laws to construct the border fence, including possibly wage and hour laws, criminal laws, labor laws, civil rights, and so on.

Now, the problem with this section—I happen to be for finishing this 3-mile stretch of California border with a border fence—is the wording in this is so broad that it appears to provide waiver authority over laws that might impede the expeditious construction of barriers and roads not just to finish the fence in Southern California but anywhere in the United States. And it would allow for no review or appeal of the decisions of the Secretary of Homeland Security relating to this.

In terms of judicial review of orders of removal, it would limit, if not eliminate, stays of removal while cases are pending. Most importantly, it would eliminate, for the first time in our Nation's history, any habeas corpus review of removal orders for both criminal and noncriminal immigrants. This is a major change. It would limit the ability of the courts of appeal to review mixed questions of law, even in cases of longtime, lawful permanent residents, if virtually any crime led to the deportation.

Further, the restrictions on reviewing mixed questions of law would apply to asylum and claims under the Convention Against Torture. Now, here is a section that causes great concern. I believe it does to Republicans as well as Democrats.

The REAL ID Act appears to essentially create bounty hunters. Let me tell you how it does that. It increases the authority of bail bondsmen to arrest and detain anyone they believe is illegal, including a financial incentive by leaving it up to a bondsman's opinion that an alien poses a flight risk which necessitates them being turned over to the Department of Homeland Security. If that is the case, the alien

forfeits his or her bond premium under very broad circumstances. Illegal aliens turned over to the Department of Homeland Security must be detained.

Now, this is at a time when immigration officials have not proven they can detain all of the aliens they apprehend today.

What this does is, it says to the bail bondsman, if you think someone is illegal, you can go after them. You can maintain custody over them and you turn them in, and they have to be detained. This is on a bail bondsman's opinion of illegality. It also would provide bail bondsmen with unfettered access to information on illegal aliens and to influence Government processes with noncitizens subject to bonding. I don't know that we should be giving bail bondsmen this authority without any hearing in the Senate or any consequential discussion in the House on this point.

It sets minimum bonds for aliens in removal proceedings at \$10,000, and it prohibits the Department of Homeland Security from releasing anyone on their own recognizance who is in removal proceedings. We don't even know if we can hold everybody. This particular section, actually more than any other, causes me enormous concern, and obviously the cosponsors of this sense of the Senate.

It does a number of other things. It holds spouses and children of an alien accountable for an alien's involvement in a terrorist organization or activity, even if they didn't know about it. I don't know that we should do that without understanding what we are doing.

With respect to driver's licenses, it creates a large unfunded mandate on the States. The CBO did a cost estimate of the costs associated with implementing the driver's license provisions and estimated that DHS would spend \$20 million over the 5-year period to reimburse States for the cost of complying with the legislation. But in addition, it would require States that participate in the driver's license agreement, which is an interstate database, to share driver information at a cost of \$80 million over 3 years, to reimburse States for the cost to establish and maintain the database. The grand total is \$100 million over 3 to 5 years.

The just-passed intelligence reform law sets up a process whereby States, the Federal Government, and interested parties will make recommendations for establishing minimum Federal standards for driver's licenses and personal identification documents. The REAL ID Act essentially countermands the rights of States in this process. Both the current law, pursuant to the intelligence reform bill, and the REAL ID Act require that States set certain minimum document requirements as well as minimum issuance standards. The difference is that the REAL ID Act eliminates the stakeholder process and proscribes a very complicated and burdensome set of requirements on States.

It also has differences between the intelligence reform bill and the REAL ID Act on the issue of driver's licenses and personal identification documents. The intelligence bill gives States 2 years to comply with minimum standards. The REAL ID Act gives States 3 years in order for these documents to be accepted by a Federal agency for official purposes.

Secondly, the intelligence reform bill requires that the Secretary of Homeland Security and the Secretary of Transportation work together to establish minimum standards for driver's licenses and personal identification documents. The REAL ID Act imposes on States what must be done.

I don't think we should do this. We passed an intelligence reform bill. We dealt with some standards in that bill. Here, without a hearing, without any committee consideration, this bill is put, by the House of Representatives, on to this supplemental and is in conference.

I don't think we should do this. The sponsors agree with me. So we have proposed a sense of the Senate that would seek to bind conferees to eliminate the REAL ID Act from this bill. That doesn't mean it is eliminated for all time. I also believe the Judiciary Committee should promptly hear the bill. We should consider amendments. We should be able to compare it in this house with the intelligence reform bill just passed and, therefore, make a decision. This is what the Senate is set up for. We are meant to be a deliberative body. We are meant to consider major and controversial pieces of legislation and, if necessary, slow them down. This is added unilaterally on this supplemental bill with no consideration by this house whatsoever. It is going to resolve itself with a very few Members of this body dealing with an enormously complicated, controversial bill that conflicts with other legislation passed by this body. We don't do our work if we let this happen.

We have proposed this sense of the Senate, and I am hopeful there will be enough votes in this body so that the conferees on the Senate side will simply not accept business being done this way. Who would have thought a major piece of immigration legislation would be placed, without hearing, on this emergency supplemental which deals with the war in Iraq and critical emergency matters? It is a big mistake.

I ask for the yeas and nays, and I understand the vote will not be tonight, but this will be put in the order.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

AMENDMENT NO. 387

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The Senator is recognized.

Ms. MIKULSKI. As I understand the regular order, the H-2B amendment I have offered is pending. I note that there are other speakers on the other side of the aisle but on the same side of the issue who wish to speak. I note the Senator from Wyoming is here and he wishes to speak. I want to continue the debate on this amendment.

The PRESIDING OFFICER. The Senator's amendment is the regular order.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the Senator from Maryland. I will briefly tell of my interest and support for this idea. I am very pleased to be a cosponsor. This is an issue we have struggled over the last couple of years. Certainly it is not the overall remedy to our whole struggle on immigration. However, this is something we do need to do now that will last in the meantime while we work on the other.

Each of us who has spoken has a little different role to play in our home States with regard to this issue. In Wyoming, it is primarily the summer season, travel and vacations, Jackson Hole, WY, and other places where this has been a very important part of providing services there. Last year, of course, we were caught up in the 66,000-worker limitation, and it was kind of unfortunate for us because, as I said, it was the summer season, and therefore, the applications didn't get in as quickly as they did in some other places where their seasons started earlier. By the time our folks applied, there were no vacancies.

I am for an overhaul of immigration. When we have the needs and we want people to be able to legally come to this country, whether it is for a short while, whether it is for a longer while, come legally, I am one who thinks illegal is illegal and we shouldn't have it that way.

We have to look at the demands and then find a relatively simple way to work through it; otherwise, people tend to try to ignore it and go around, so that doesn't work.

These small businesses are in need of some relief. They cannot find workers to do these jobs. The Labor Department certifies there is indeed a labor shortage in this case and they look to willing workers.

The Mikulski amendment is quite simple, as has been explained. It doesn't count workers to the cap of 66,000 who have participated in the H-2B program during the past 3 years. It separates the allocation to two 6-month batches 2-year temporary relief. It collects new fees for fraud prevention and detection so folks who process the applications have the skills and tools to identify fraud. We need to make these changes.

I understand the difficulty with the bill that is on the floor. I think the resolution is coming clear so we can deal with some of these issues and leave the larger, longer term solutions to another time.

Mr. President, I thank the Senator from Maryland and I look forward to a very positive vote on this issue.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I thank the Senator from Wyoming for his comments in articulating the economic issues facing Wyoming. I have had the occasion to visit there myself and I know what a wonderful State it is. I am not much of a skier; I am built a little too close to the ground for that. But this shows this is not only a coastal State issue, and it also shows it is not only a seafood processing issue; this is an issue that affects our entire country, particularly those who depend upon summer seasonal workers. We understand some of our States enjoy—whether it is Massachusetts, Wyoming, or Idaho—both summer and winter. Either way, the Senator knows that we depend on summer workers. We thank him and the Senator from Idaho who spoke, as well as others.

Mr. President, I note that the hour is late and now that the Senator from Wyoming has spoken, I am not sure if there are other people who wish to speak.

I ask unanimous consent that Senator SNOWE of Maine be added as a co-sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I want to get a vote on my amendment, but it is not possible tonight. Therefore, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I have requests to make on behalf of managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

#### AMENDMENT NO. 401

I send an amendment to the desk on behalf of Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 401.

Mr. COCHRAN. 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:

On page 193, line 23 of the bill, strike "\$500,000" and insert in lieu thereof: "\$1,000,000".

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 401) was agreed to.

#### AMENDMENT NO. 402

Mr. COCHRAN. Mr. President, the next amendment is on behalf of Senators MCCONNELL, LEAHY, and OBAMA that addresses the Avian flu virus in Asia, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, for himself, Mr. LEAHY, and Mr. OBAMA, proposes an amendment numbered 402.

Mr. COCHRAN. 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 address the avian influenza virus in Asia)

On page 192, line 19, after "March 2005," insert "and the avian influenza virus,".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 402) was agreed to.

#### AMENDMENT NO. 403

Mr. COCHRAN. Mr. President, I now send to the desk an amendment on behalf of Mr. LUGAR and Mr. BIDEN. It deals with an increase in funding for the Department of State's Office of the Coordinator for Reconstruction and Stabilization with an offset.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. LUGAR, and Mr. BIDEN, proposes an amendment numbered 403.

Mr. COCHRAN. 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 additional amounts for diplomatic and consular programs and reduce the amount available for the Global War on Terror Partners Fund)

On page 171, line 13, strike "\$757,700,000" and insert "\$767,200,000".

On page 171, line 21, after "education:" insert the following "Provided further, That of the funds appropriated under this heading, \$17,200,000 should be made available for the Office of the Coordinator for Reconstruction and Stabilization:".

On page 179, line 24, strike "\$40,000,000" and insert "\$30,500,000".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 403) was agreed to.

#### AMENDMENT NO. 404

Mr. COCHRAN. Mr. President, I now send an amendment to the desk on behalf of Mr. LEAHY regarding environmental recovery activities in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 404.

Mr. COCHRAN. 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 modify language in the bill relating to environmental recovery activities in tsunami affected countries)

On page 194, line 7, delete "Aceh" and everything thereafter through "Service" on line 9, and insert in lieu thereof: "tsunami affected countries".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 404) was agreed to.

#### AMENDMENT NO. 405

Mr. COCHRAN. Mr. President, I send an amendment to the desk on behalf of Mr. LEAHY requiring a 5-day notification to the committees on appropriations for tsunami funds.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 405.

Mr. COCHRAN. 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 reads as follows:

(Purpose: To require five day prior notification to the Committees on Appropriations for tsunami recovery and reconstruction funds)

On page 194, line 19, after colon insert the following:

*Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds:

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 405) was agreed to.

Mr. COCHRAN. Mr. President, I thank the Senators.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 406

(Purpose: To protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Indiana [Mr. BAYH], for himself, Mr. CORZINE, and Mr. PRYOR, proposes an amendment numbered 406.

Mr. BAYH. 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 printed in today's RECORD under "Text of Amendments.")

Mr. BAYH. Mr. President, I rise to support a cause which is essential to the continued prosecution of our war on terrorism. It is essential to preserving our National Guard and Reserve as a vital force in defending our country, and it is essential to defending our moral obligation to those who defend our Nation.

No one—particularly those citizens who have placed themselves in harm's way at our bidding—should be forced to choose between doing right by their loved ones and doing right by our country. The amendment I have submitted will prevent that moral tragedy from happening.

What I refer to as the patriot penalty—the cut in income those who are called to active duty in our Guard and Reserve must suffer—has become a very serious problem. We now have about 180,000 Active-Duty Guard and Reserve personnel; 40 percent of the forces in Iraq have been called to active duty from the Guard and Reserve. The deployments are now lasting longer on average than any time since the Korean war.

Since that conflict, it had been our practice to not summon the Guard and Reserve for active duty for more than 6 months. Today it is routine they are called to service in Afghanistan, Iraq, and elsewhere for longer than that period of time, making these deployments not reasonably anticipatable on behalf of these individuals and their families.

Mr. President, 51 percent—more than half—of the guardsmen and reservists who are called to active duty suffer a loss of income, the patriot penalties. The average loss is \$4,400 per citizen soldier—a material amount of money for the average American family. The General Accounting Office in a recent study indicates that there is growing financial strain on these families, even up to bankruptcy. It is morally unacceptable. It is unacceptable from a national security standpoint and from our obligation as fellow citizens that those we place in harm's way and ask to make the ultimate sacrifice physically should also be asked to make the ultimate sacrifice financially.

That is what this amendment would stop. It is hard, not just for the soldiers and their families involved; it is also undermining the vitality of the Guard and Reserve and the essential role they play in service to defending our country. Fully five out of six of the Reserve branches did not meet their recruiting goals in the most recent period. General Helmly, the head of the Army Reserve, has described the Army Reserve as a broken force. At a time when we are relying upon our Reserve and our Guard men and women more than ever

before, they are on the cusp of becoming, according to their commander, a broken force. We must not let that happen. Of the 78 percent of these individuals who are considering not reenlisting in the Guard and Reserve, fully 75 percent, three-quarters, cite the loss in income as a material factor in their decision to not reenlist.

Many laudable firms in my State and, I am sure, in the State of Mississippi, the State of South Carolina, and elsewhere, are doing their part. About one-third of employers are seeking to make up this penalty, the patriot penalty, on their own; 23 States are helping. It is important we do our part as well.

Our amendment would provide, after someone has been called to active service for more than 6 months—therefore a period of time more than was reasonably anticipatable—for up to \$10,000 in lost income be made up for these individuals, meaning that more than 95 percent of those who suffer this penalty would be made whole.

We provide incentives for the two-thirds of employers currently not contributing to making up these penalties, for them to do their part as well, making it a public-private partnership. The cost over the next 5 years is estimated to be about \$535 million. Given the scope and the magnitude of the undertakings in Afghanistan, in Iraq, the costs we are incurring for so many other activities, including to try to train, equip and put into place Afghans and Iraqis to defend their countries, this is well within our budget. This is well within what we can afford as a country, to do right by those who are attempting to implement freedom abroad, to ensure that they can do right by their loved ones and their families at home.

Objections, of course, are raised to anything in the Senate. The principal one is that it will lead to an inequality of pay to those on the battlefield, permanent Active-Duty personnel versus Reserve and Guard men and women who have been called to serve by their side. These are unequal circumstances. As I said, for those who are Active-Duty and have made that commitment to our country, they can plan for that circumstance. For those in the Guard and Reserve who have been called to service for a period of time that was not anticipatable because it is longer than any time in the last half century, they require and deserve somewhat different treatment. I simply say, we do not call upon our Active-Duty personnel to take a cut in pay when they enter combat. We should not ask our guardsmen and reservists to take a cut in pay when they do likewise. That is why the patriot penalties must be made up.

In conclusion, we should find it within both our hearts and our wallets to do right by those who defend our country. It is important to the fight against terrorism. It is important to the preservation of the Guard and Reserve as a

vital component of our Nation's security. It is important and essential that we fulfill our moral obligation to those we have called to duty so that they can do right by their loved ones, just as we are asking them to do right by their company.

I respectfully ask for my colleagues' support of this urgent and worthwhile initiative.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 398, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 231, after line 6, add the following:  
TITLE VII—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

**SEC. 7001. FINDINGS.**

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly known as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

**SEC. 7002. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.**

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

**SEC. 7003. PURPOSE AND DUTIES.**

(a) **PURPOSE.**—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) **DUTIES.**—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) **INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.**—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) **EVIDENCE CONSIDERED.**—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

**SEC. 7004. COMPOSITION OF SPECIAL COMMITTEE.**

(a) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) **DATE.**—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) **VACANCIES.**—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **SERVICE.**—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) **CHAIRMAN AND RANKING MEMBER.**—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) **QUORUM.**—

(1) **REPORTS AND RECOMMENDATIONS.**—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) **TESTIMONY.**—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) **OTHER BUSINESS.**—A majority of the members of the Special Committee, or ½ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

**SEC. 7005. RULES AND PROCEDURES.**

(a) **GOVERNANCE UNDER STANDING RULES OF SENATE.**—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) **ADDITIONAL RULES AND PROCEDURES.**—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

**SEC. 7006. AUTHORITY OF SPECIAL COMMITTEE.**

(a) **IN GENERAL.**—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) **HEARINGS.**—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) **ISSUANCE AND ENFORCEMENT OF SUBPOENAS.**—

(1) **ISSUANCE.**—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) **ENFORCEMENT.**—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) **MEETINGS.**—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

**SEC. 7007. REPORTS.**

(a) **INITIAL REPORT.**—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 7003 not later than 270 days after the appointment of the Special Committee members.

(b) **UPDATED REPORT.**—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) **ADDITIONAL REPORTS.**—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) **FINDINGS AND RECOMMENDATIONS.**—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 7003.

(e) **DISPOSITION OF REPORTS.**—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

**SEC. 7008. ADMINISTRATIVE PROVISIONS.**

(a) **STAFF.**—

(1) **IN GENERAL.**—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) **APPOINTMENT OF STAFF.**—

(A) **IN GENERAL.**—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) **MAJORITY STAFF.**—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) **MINORITY STAFF.**—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) **NONDESIGNATED STAFF.**—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) **COMPENSATION.**—

(1) **MAJORITY STAFF.**—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) **MINORITY STAFF.**—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) **NONDESIGNATED STAFF.**—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) **REIMBURSEMENT OF EXPENSES.**—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) **PAYMENT OF EXPENSES.**—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

**SEC. 7009. TERMINATION.**

The Special Committee shall terminate on February 28, 2007.



**SEC. 7010. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.**

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

Mr. DORGAN. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVI for the purpose of proposing to the bill H.R. 1268 amendment No. 399, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following:

SEC. \_\_\_\_ (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

Mr. KERRY. Mr. President, this debate on emergency funding for our military wouldn't be complete if we did not begin to address the crises military families face at home as well as abroad.

I am proud that the Senate has passed my two amendments, one to allow families to stay in military housing for a full year after the death of a spouse, the other to ensure all military families receive \$500,000 in total death benefits when a loved one dies in service to America, but I am also deeply moved by the stories I have heard from across our country in the last 24 hours about the challenges to military families every day.

Yesterday, I sent an email to Americans asking them to share their stories—of husbands and wives, sons and daughters, neighbors and friends who serve their country with courage but have been left on their own by our policies here at home. Within hours over 2,000 Americans sent me their stories. They took time out of their busy days to share their stories on the hope someone would listen. Their voices must be heard in the halls of Congress. Today, I enter a small sample of their stories into the CONGRESSIONAL RECORD to prove we are listening, and hope that today's victory marks a new beginning, and that soon Congress will answer all their prayers and pass a comprehensive Military Families Bill of Rights.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Alan Neville—Aberdeen, SD

This is a story about my own family. In January 2003, my wife was called to active

duty with her Army National Guard unit. She was inactive status and a mere 7 days from being completely out of the military when she was mobilized. She went from being a civilian attorney to a Sergeant/E-5 administrative clerk at a significant loss of pay. At that time, I became a single parent to four young children for one full year. In August 2004, I too was called to active duty with my Army Reserve unit. I went from being a university professor to being a Sergeant First Class/E-7. Once again, our four children were without one of their parents during their critical stages of development. We've done our part, now it's time for others to do their part. The burden placed on the National Guard and Reserve forces seems extreme. The morale among more seasoned soldiers, those with 10 to 20 years of service, is not good. Many are getting out of the military at the first available moment.

Jack Cooper—Corpus Christi, TX

This is a story about a young couple in Austin, Texas. The husband works for Home Depot and was called up in the Marine reserves. There are two young children, both girls. One of the girls has Job's Syndrome. Home Depot did not continue the family's insurance.

They had to go out and pay ridiculous rates for additional health insurance to cover the child. That was money they could not afford because Home Depot did not pay his salary while he was gone. The child was in the hospital for much of the time the father was in Iraq. The mother had to take off from teaching to stay with the child in the hospital. She used up all vacation and sick time, and then was docked pay for lost time.

We are not taking care of our soldiers or their families.

Doris Fulmer—Albuquerque, NM

I just lost my husband on February 11. He was a navy pilot for 28 years. He paid on my SBP for years, and now I can hardly get by, and waiting for the increase in October is going to be difficult. I will have to sell my house to survive. It appears they are waiting for us to die to . . .

Not enough is being done for the active duty veteran. I don't see how the administration can be so tight with the veterans and their loved ones while we wage war in a foreign country and pour in millions of millions of dollars.

Stephen Cleff—Haddenfield, NJ

This past Christmas, my uncle was called into service in Iraq. He has served this country in Vietnam and when he returned continued to serve as a policeman.

My uncle is 58 years old. This is an example of how stretched our armed forces are because of the current policies of the President and his followers.

His current service not only required that he miss Christmas with his family, including his father who was very ill, but more importantly, it required that he miss his father's funeral. His wife is now alone in their house, waiting for his return. I do not know the specifics of their finances, but I do know that they relied on his income as a police officer.

I wonder how easily our current majority leaders would send people into combat if they had to survive on the same benefits.

Christopher Perkins—Burnham, ME

Here in Central Maine we have a young man, Fred Allen who, like myself, volunteered to be a paratrooper and served in both Afghanistan and then in Iraq.

He was grievously wounded in both legs in Falluja, a name we all know from the news. He spent a good deal of time in the hospital getting back on his feet and continues his healing and therapy at home. According to his mother he is receiving little in the way of compensation or direct help.

I can draw a strong parallel here with my personal experience in the Army.

I enlisted in 1967 at the height of Vietnam and also went Airborne. I served with the 3/506th Airborne Infantry "Currahees" of the 101st Airborne Division in 1968-69. I was a radio operator and then a machine gunner in the field. I received the Combat Infantryman's Badge, Jump Wings, Air Medal and the Bronze Star with "V" Device for heroism in ground combat.

After my return home my best friend was killed in Vietnam and I began to have serious problems with nightmares, depression etc.

The army's answer at the time was a "resignation for the good of the service" Sign here and you can go home.

In the 1980's there was a greater awareness of the problems veterans were having and programs were developed, but for over 15 years we were on our own. Many good soldiers didn't make it.

Thanks to Senators Mitchell and Cohen I was finally able to receive PTSD treatment and treatment for arthritis and a disability award.

It is my greatest hope that our younger brothers will not have to wait so long for their help. I once wrote a critique of the PTSD program at VAMROC, Togus, Maine for Senator Mitchell. This was my final remark.

"We who placed our lives in the balance, and were not found wanting, ask for no more than that which is our due, to be treated with dignity, honor and respect."

Pamela Goers—Romulus, MI

My stepson is in the Navy stationed in Washington State. He finds it so extremely hard to take care of his family on his pay that he was willing to volunteer to go to Iraq [again] because of the bonus offered and how much his family would benefit from it. This is just wrong. The military men and women put their lives on the line for us; the least we can do is ensure that their families are provided for.

James Tate—Coon Rapids, Iowa

I have 2 sons in Afghanistan, deployed for 1 year duty with the 168th Infantry Iowa National Guard. The younger has had the misfortune of having his marriage disintegrate in his absence and he has no assurance that his construction job will be available on his return. The older has a contract detassling business for 2 Iowa seed corn companies. This is a very seasonal business and Mike has suffered a \$60,000.00 loss of income from the business. In his absence his wife and I had the responsibility of keeping the business going but the companies involved were fearful that in his absence we would not be able to handle the number of acres he normally completes. Consequently they cut the allotted acres by 1/2. Much of the fixed expenses of running such an operation remain the same regardless of the total acres performed. Normally the business returns approximately \$70,000 above expenses. Last summer the return was less than \$10,000.00. Besides, there remains a question of whether or not the companies will make the normal acres available in the future or if they will give them to the other contractors that filled the void this past summer.

My wife and I raised and educated 11 law abiding, tax paying American citizens. This administration has created a situation that for the first time in nearly 70 years leaves me ashamed of what my country is doing in the world.

D. Bottoms—Oregon, WI

My best friend Kurt Jerke, age 31, is a captain in the Indiana National Guard. He was a Ph.D. graduate student in the Department of

Biological Sciences at Purdue University. In his final year for his Ph.D. degree, he received orders to leave for Afghanistan. At this time, his wife Katie had just giving birth to his first son. Kurt left when his son was only two months old. Katie has been in a daze ever since Kurt left for Afghanistan with managing her job, daycare and caring for her child, while maintaining there house all as a single parent. They're son, Cade, is now a year old. He's a walking, talking, cute little guy. Kurt missed his son's first year and Kurt still has no end in site. Kurt has no idea when or if he's coming home. Kurt has no idea if he's staying in Afghanistan or if he's going to Iraq . . .

Sandy Fox—Cleveland, OH

As a 6-year member of the Ohio National Guard, my son was within one month of completing his obligation when he was notified that he could not leave the service. He is now in Baghdad, much to the dismay of the entire family.

He has two sons, ages 2 and 4. He discovered the week before he shipped out for Iraq that his wife is pregnant with a daughter . . . the first female in our family for quite a long time. His wife is a nursing student who also has a part-time job. Not only has his departure caused emotional upheaval for the entire extended family, he was the major "breadwinner" for his nuclear family.

Knowing that she could not afford to keep up payments on their apartment, their vehicles, etc., without his income, she approached the military for assistance. She was told that there was nothing they could do for her. . . that she would have to turn to her in-laws for help to sustain her and her family while her husband was serving our country.

In summary, this poor pregnant woman is living in the basement of her in-laws' home with her two sons because the military and our government turned their backs on her. Their atrocious treatment of the military personnel, their families and our veterans belies all their public rhetoric about family values and moral integrity. It's disgraceful! I don't know how they sleep at night.

Kara Block—Jamaica Plain, MA

My brother is a lieutenant in the Marine Corps. He has been on two tours of duty to Iraq and is about to deploy for the third time, this time to Afghanistan.

Since 9/11, our family has been continually shadowed with the threat of losing my brother on one of his deployments. He was on the first wave of the invasion in March 2003 as part of the 1st Light Armored Reconnaissance that forged ahead to Tikrit. On that first Iraq deployment, we did not hear from our brother until it was time for his battalion's return to the States. He called my parents via a satellite phone before heading back, to ask them to wire \$200 for a phone card to call home from the ship that carried them homeward. The U.S. government does not pay for its troops to keep in touch with their families while deployed.

On his second deployment to Iraq, my brother called home to ask for a particular kind of field binoculars, as those that should have been standard issue to him had not been provided. These binoculars cost my parents \$500, and were obtained only with great difficulty [incidentally, per Newsweek in 2003, the average American troop spent over \$2000 outfitting himself/herself with safety and field gear]. For many other military families, the purchase of this necessary safety-enhancing instrument would be prohibitively expensive.

In January 2004, when much media ado was made about the lack of armor in the Humvees contributing to many unnecessary roadside fatalities from IEDs, President

Bush made a statement assuring all military family members that the troops would receive proper armor by March 2004. However, upon their return, several Marines Lieutenants informed us that the armor did not arrive till June/July 2004; despite the battalion's mission being to escort military and civilian convoys—a highly dangerous duty that took them all over IED-infested roads of Iraq. The Marines also cited a shortage of flak-jackets on their first deployment.

The ordeal of enduring those long, dangerous deployments (especially cognizant of the lack of armor/equipment) and perennially bracing for bad news is too great to recount here. Needless to say, these last few years have taken an extensive toll on the health and happiness of this family, which I consider as much of a sacrifice for this nation as the military service of my brother.

Despite the outcry of his family against such things as his inadequate training for the jobs with which he was tasked, lack of armor and other safety-enhancing equipment [and despite the acknowledged fact that he and his men faced death at every moment at the behest of a president who lied us about the reasons for war], my brother has volunteered to extend his time in the Marines and to deploy for a third time in two years. Were I a poet I would better describe my boundless pride in him and all our troops. Heartbreakingly, he and all the other troops who give so much for this country ask so little in return.

We celebrate the heroism our troops with homecoming parades, yellow ribbons and imposing bronze memorials. But we as a country [especially in Congress] should put our money where our mouth is and increase combat pay, grant our Veterans adequate health care and other benefits, and take care of the families of the fallen or injured (e.g., access to good education for their children). THAT would be a meaningful demonstration of our respect and appreciation for their sacrifice. Our troops deserve no less.

Theresa Grof—Agawam, MA

My husband was activated in 2001 after 9/11. His pay was so low as a technical sergeant in the U.S. Air Force Reserves that we are now 20,000 dollars in debt and have no way out. My husband has served his country many times, he is a Gulf War Veteran, Operation Enduring Freedom Veteran, and an Iraqi Freedom Veteran. He has 14 years in the United States Air Force Reserve, but the pay is so low and the benefits being slowly eroded away that he is no longer sure if he wants to make it to 20 years. He sees his unit falling apart and wants to stay but with cuts in benefits and our debts mounting (we have also both attended college on our GI Bills during these activations) that it just does not seem feasible to stay in the reserves any longer. His unit is losing more and more longtime reservists every week. The unit is becoming undermanned and when they get a new recruit, which is not very often, the person is not well trained enough to really help. This problem of losing long serving military men like my husband will affect the military's mission. Retaining these men is important and passing a bill to help those of us so in debt because of continuous activations should be a major priority at this time. I am very proud of my husband and I see his determination to keep serving his country but soon there will be no reason to stay.

Mark Vaughn—East Greenwich, RI

I am in the U.S. Army Reserve and have been deployed 4 times in 8 years. I have missed almost 36 percent of my daughter's life while deployed. When not deployed I am an adjunct college professor and, until recently did not make enough to be able to afford health insurance. The only time I and

my daughter were covered was while I was deployed. While I believe that it would be cost prohibitive to provide all Reserve and National Guard soldiers health benefits, it would be the right thing to do to provide them a health plan which they could buy into (co-pay). This plan would cover them and their families whether or not they were deployed. In addition to providing the families of our soldiers, sailors, marines and airmen a benefit it will also help keep them healthy should they be called up. I believe that it would also provide a strong incentive for recruiting. Just a thought.

Heidi Behr—Orlando, FL

I work as a social worker at a local elementary school in Maitland, Florida. We have some kids in our school whose parents are serving in Iraq and Afghanistan. I know of many families (some at our school and in our community and elsewhere around the country) who are struggling to make ends meet financially because they are not receiving adequate compensation while their loved ones serve in the Armed Forces. Many of the families who have members in the National Guard are dealing with the double blow of loss of pay while also now not having their husband or wife at home. I think it is criminal that our government calls these national guards up without compensating the family for their lost wages and insurance. If a family was dependent on this guard member's insurance through their civilian job, many times those families have now lost health insurance. This is not right and needs to be taken into account by the government when they decide to call these men and women back into service.

Carrie Philpott—Eugene, OR

My son joined the Marine Corp in November of 2002. He enlisted with the hopes that he would be able to fulfill his dream of attending college and earning a BA degree in Criminal Justice. Other than the GI bill, no other funds are available to him for higher education. He has just spent a month at home with me after being injured while serving our country in Iraq. He had the time to study his military benefits package and look at what university he would be able to attend. Imagine his disappointment and frustration to find that his GI bill will only cover 1.75 years of an undergraduate degree at a state university that doesn't even offer a degree in his field of study. He has now returned to his unit to complete his 4 year enlistment only to be told that he will have to go back to Iraq in Aug. '06.

Along with his physical injury, my son had nightly nightmares, screaming out visions that could only have come from his battle experiences. I wonder what else he will have to endure for the price of an education?

Kathy Hartman—Loveland, CO

This is a story in reverse to what you are seeking. I have a nephew serving in Iraq who works as a security guard for a private contractor. He receives approximately \$18,000 per month and has all of the finest in equipment and security. He received his training as a Ranger in the U.S. Army but now serves as an employee of a private contractor.

My question is, why isn't every soldier employed in Iraq able to receive the salary, benefits and equipment that this "soldier" does? Why have we contracted some of this war out to the highest bidders, using our tax dollars to pay some of our soldiers a more-than-decent wage while our "grunts" fight and die at minimum wage? I do not understand this inequity except of course for the fact that we have now set up wars and military expenses to benefit large corporations even more than they have benefited in the past.

Don't get me wrong. While I do not believe in this war, I do believe that all those in

harm's way should be equitably compensated, trained and outfitted. I would rather that all soldiers be compensated at a wage befitting the horror and danger they experience.

Clearly the private contractors are able to pay generous compensation in addition to making generous profits. This is wrong.

Nada Smith McLeskey—Columbus, OH

I was married for 28 years to my first husband who for 21 years served our country in the United States Air Force. He continues today serving our country by teaching your high school students leadership by serving with the JRAFROTC Program in Salt Lake City, Utah. Our daughter served for 6 years in the Utah Air National Guard and today our son serves our country in the United States Air Force in the Special Forces branch. Our son has already seen one tour of duty to the Middle East. He is married and a father of 3 children. He is an enlisted service member. His wife was forced to stop working because their childcare far out weighed the income she could bring home and the subsistence allowance program was cut by the Bush Administration. They now live in base housing but none the less, their income for a family of five is roughly \$2000 per month. By the time their bills are paid, there is little left for them to buy groceries or enjoy the luxury of maybe going out to a movie or to eat. I send them what I can per month to help out. I know what it is like to serve our country and have to live on an extremely tight budget. My daughter in law would love to work so they can pay off their debts and have extra money, but with 3 children under the age of 6 it is impossible as childcare would eat up all her wages. Thank you.

Doug Brewer—Tacoma, WA

My daughter is best friends with a 16 year-old whose father is a reservist. He was deployed to Iraq, leaving behind a 12 year-old autistic child, who needs the care of two parents to even have a semblance of a quality of life. The father is in Mosul, a very dangerous place, ostensibly for a year, but we all know how that length of time has tended to expand. I can't tell you how many tears this family has shed over the father's safety, the one parent's frustration of raising an autistic child (among two other siblings), as well as the financial pressures of having the main bread-winner gone. Why? For what purpose? Katie Laude—Beaver Dam, WI

My husband is a reservist currently serving in Afghanistan. He served his 8 years of military service after getting an ROTC scholarship for college. After finishing his two years of being a company commander he went on IRR. After September 11th he was given the advice to join back with his unit or risk being "cross-leveled" into another unit where he wouldn't know the troops.

Well, as it turns out, he did join his old unit again but was still cross leveled to a unit in St. Cloud, MN (we live in southern Wisconsin). We have three boys (ages 9, 6 and 1). I had our third son after my husband had left. To make it worse, I have NO family support group unless I want to drive over 5 hours to the unit in Minnesota. I have had to hire out virtually everything around our house (lawn, snow removal, home maintenance, etc). After taking a year leave from my job after the baby was born, I felt I had to go back to work. So I am now working full time as a teacher and raising three kids with no husband.

Linda Brown—Bunker Hill, WV

Our daughter is in the MD Air National Guard as well as a full time college student. We still carry her on our medical insurance. She has been deployed twice in the last 3 years each time putting her education on

hold. Her boyfriend works full time at the WV Air National Guard but does not have medical insurance. My daughter became pregnant but is unable to marry her boyfriend because he does not have medical insurance. There is no way she could marry him and then have the baby with no insurance. I advised her not to, what if something happened to her or the baby? We cannot afford to pay out of pocket and we make too much money to qualify for Government aid. We would like our daughter to be married and she would like to be also. Her boyfriend has checked into private insurance but at \$800 a month they can not afford it. My daughter served in Qatar in Operation Enduring Freedom as did her boyfriend. He flies almost every week doing missions for our government but is not offered insurance! It makes me so mad, most of our government officials don't care about healthcare for others because they will never have to worry about themselves.

Gail Mountain—Gloucester, MA

Like a lot of stories about abuse and mistreatment, despite the specific issue surrounding that abuse and mistreatment, proving it is very difficult.

Nonetheless, I would like to share my suspicion of mistreatment of my nephew as a member of the Air Force reserve who lost his job in the U.S. upon his return from a 3-month assignment in Kuwait, perhaps a year ago.

He had been getting subtle messages for months from his employer that his need for time off to accommodate his military training was not appreciated.

When he returned from Kuwait, he was "let go" under what I believe to me the guise of his inability to do his work.

He believes, and so do I, that he lost his job because of the time it took for him to serve his country.

He will never be able to prove it, but I think we need to also find a way to insure this does not happen to those who choose to serve our country, yet still need to earn a living.

This young man continues to diligently working on his master's degree and to take every opportunity to get as much military training as he can so he can become a part of the investigative branch of the Air Force because he loves his country and because he wants to participate in the safety of it. I hope a part of your work will be to also insure that our reserves and our national guard are taken care of by the country they choose to protect.

Sarah O'Malley—Castine, ME

This story is of a man in a town near by, the nephew of a friend, a high school classmate. Harold Gray was in the National Guard, the 133rd Engineering Battalion from here in Maine. He was injured several months ago by a road side bomb, getting hit with shrapnel in the head and shoulder. Shrapnel destroyed his eyes and lodged in his brain.

Harold was in a coma for quite a while at a military hospital in Washington. His wife traveled to DC to be by his side, and his three young daughters are staying in their home community with family. Harold's wife is a manicurist with no benefits, when she doesn't work, she doesn't get paid. She hasn't been working for months now. In every store you go in around here, there is a coffee can with Harold's picture, collecting spare change to help support his family. This soldier's family is living off good will and spare change.

As a Guardsman, I don't know what kind of extended support Harold and his family can expect. The best case scenario for Harold's situation would be a full cognitive recovery,

but with total blindness. This is however, extremely unlikely. Harold will live the rest of his life with shrapnel in his brain, and the severe cognitive deficit that goes with it, as well as the loss of this sight. As a Guardsman, not a member of the Army etc, I fear that his family will fall between the cracks, and through loop holes and bureaucracy not receive the benefits (however paltry) that regularly commissioned soldiers are entitled to.

Jean Harris-Letts—Middleburg, FL

I am a physician in a town where many of my patients count on military benefits.

For Medicare recipients, most of the time both Social Security checks go for food and rent, while hopefully the service connected spouse will be able to get his or her medication from the Veterans Administration. The non-military spouse will have to get samples of meds or often go without.

My younger patients whose spouses are in the military are in an only slightly better position . . . It baffles me how anyone could countenance cutting military benefits in a time of war, when so much depends on morale.

The patients to whom I refer are not deadbeats. They are hard working people, who are just not being properly compensated, and find only twenty four hours in the day when they try to do more.

George Cleveland—Milwaukee, WI

I am a Vietnam era vet with severe back pain, lumbar/sacral facet degeneration. I was completely independent when President Clinton was in office. When President Bush got in office and reduced V.A. funds. They took away my pain meds, which were 6-5mg Percocets and 2-10mg Oxycodone. It's gotten to the point that I can't walk with my grandchildren anymore. I'm 58 years old and poor with no other insurance I've talked to other vets with similar problems. We've basically been told that we are not worth the price of our meds. What's going to happen 40 years from now when the vets from Iraq still need help will they be forgotten to? Just go to any V.A. Hospital in this country and talk to the vets sitting in the smoking area and ask. This will probably screw me pretty bad but at this point I just don't give a damn.

Holly Ortman—Fort Benning, GA

My name is Holly Ortman. Not only am I a nurse in the US AF Reserves (inactive now), but I am also a spouse of an active duty soldier in the US Army and a mother of 4. I am highly educated and was working on my Practitioner's Degree. I have always stood behind our government and its decisions, but as of late, I feel that my support is dissipating due to the government's lack of support for the military families and the military child. When our son was 6 months old, my husband was given orders to deploy to Afghanistan with the 10th Mountain Division. At the time I was an ICU Nurse manager at the local hospital. At this point in our lives, we only had 3 children. Due to the demands of being a mother of 3, one of which was only 6 months, and an acting single parent due to the absence of my husband, I had to step down as the nurse manager and work in the ER as an emergency/trauma nurse. This was very short lived because in the state of New York nursing is unionized, therefore everything works off of seniority. That left only night shifts open for me to work. Because finding a trustworthy person to come in at night and watch 3 children and get 2 of them ready for school the next morning is so difficult I had to totally resign my nursing position. Just so you understand the seriousness of this let me explain that before I resigned, our family income was close to \$4500.00 a month. Because I could not work

due to the military deployment, our income fell to less than 1800.00 a month. This qualified our family for W.I.C., and other forms of public assistance, which we had never needed before, but desperately need now. During his deployment, my husband re-enlisted for another 6 years. He is a very patriotic man and he wanted to do what he felt in his heart was right. We toughed it out and my husband came home in May of 2004. Shortly after his return, we found out we were pregnant with our 4th and last child. He then received his orders for Fort Benning, Georgia. We relocated to Fort Benning and upon his first day of reporting and 6 months TO DO THE DAY of his return from Afghanistan he was told to collect his CIF gear, he would be leaving for Iraq by January and that they needed his combat experience over there. We were devastated, as the birth of our last child was due in February and we were hoping to financially catch up by me going back to work. Due to the fact that my pregnancy was high risk, he was allowed to stay behind until the baby was born. He is now leaving for Iraq this Saturday. My career, in a field that is in dire need of experienced people, will once again be on hold, and we will have to scrape by yet again due to the minimal amount the government pays my husband to leave his family and put his life on the line. I was so disappointed in my government when I heard that many wanted to decrease the deployment pay. We are barely making it as it is and without that pay we would literally be in dire straights. Now there is talk of decreasing the amount of the yearly raise to help the budget. Both of my oldest children go to a military school and it has been a God send. They have deployment groups for them and a counselor to help with the transition, which was very hard during the first deployment. These schools know how special a military child is. Now Donald Rumsfeld wants to shut down our military schools. How much more can you people keep taking from us before you realize that we have nothing left to take? I cannot even repay my government student loan because I can not work because of his continual deployment and the government doesn't pay him enough to keep us above poverty level. My family has sacrificed so much and only keeps getting slapped in the face by our government. My family feels so used. I currently hold a commission as Major in the USAF IRR, which I am resigning, and I have told my husband, we will find him a way out. We just can't afford the price of your freedom anymore. I am sorry but fine speeches and big talk cannot put food on my table and bring my husband home alive. Thank you for this chance to share this with you.

Richard Perez, Sr.—Las Vegas, NV

On February 10th, 2005 at 11:30pm in Al Asad, Iraq, we lost our only son USMC LCpl Richard A. Perez Jr.

His story is on [www.richardperezjr.com](http://www.richardperezjr.com) website.

The heartache will never end. My wife Rosemarie who had been a senior sales agent for State Farm with the states highest sales totals for the past 4 years is devastated and has no more energy to even perform her job anymore because of the loss of our only son.

I, Richard A. Perez Sr., Battle with this problem daily, recently our son had signed with us on a very large home loan which we thought would solve all problems as we have rented for 20+ years and never owned a home.

We bought it with the pretense that Rich would help us with the home loan and to build upon his career and life with his own family as he was generating money in his management position at Jack in the Box restaurant. The house has not been built as of yet, but the looming cost of a home here in

Las Vegas is skyrocketing and a big payment is due soon. We cannot afford to do this as our daughter is a student at UNLV another a student in High School aspiring model and actress and a third only 10 years old a gymnast in Henderson . . . all girls who lost their brother.

I personally have lost my job and find myself on unemployment getting 329.00 per week because I grieved too long and could not perform my job at the level expected.

Costs run high, but our family has been ruined by a war my son never intended on entering as he was a reservist and had goals and dreams of his own. We still have not even gotten our sons final report, we don't even know the details of what happened? 8-9 weeks ago . . . He was proud to be a Marine and we are proud of him, the little money the Government gave us has paid his college loans at UCLA and we are faced with the hardship of our lives being ruined, because of Iraq.

My whole family has suffered during the past 2-3 months since the accident but really the past 7-9 months we've been stressed and it has affected all that we do daily.

What a disaster, what a shame that my own land of liberty, land of the free has placed us in bondage for years to come and has all of us reeling as where do we go from here?

I am a 7th generation American. My family tree is American Indian, Spanish and Mexican from Los Angeles, CA. I grew up thinking my country was great, my forefathers defended my stance so we can live today. My very uncle Fred Perez sold airplanes to Iraq and Iran as he worked for Boeing in the 60-70s. My cousin lost a leg in the USMC in Vietnam. My Uncle lost an arm in Korea and my wife's uncle died on the shores of France during WWII. What happened to the American Dream? Why, when my family and son defended liberty, do we now suffer? People in NYC buildings were provided 2 million dollars each so they could adjust to their loss. Yes, they needed it, but we do too.

Mr. WARNER. Mr. President, I will offer an amendment to H.R. 1268 which would require the Department of Defense to submit a report to Congress by July 15, 2005, on the Government's processes and policies for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for reuse and redevelopment decisions.

This report will be of tremendous assistance to States and local communities affected by BRAC, and faced with difficult decisions about the redevelopment and economic revitalization of their areas. The report required by this amendment is similar to Community Guides to base reuse, which were published by the Department of Defense in all four previous BRAC rounds during the Commission's deliberations. These guides served a vital purpose for affected communities by explaining existing Federal law pertaining to property disposal and by endorsing a proactive and cooperative relationship between military departments and local communities, without appearing to be directive in nature. I ask support for this amendment.

#### MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a

period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

ARMY 1ST LIEUTENANT CHARLES WILKINS, III

Mr. DEWINE. Mr. President, inscribed on an exterior wall of the Chapel at the Normandy American Cemetery and Memorial in France, are the following words:

These endured all and gave all that justice among nations might prevail and that mankind might enjoy freedom and inherit peace.

Many years after the bloody battle on Normandy's shores and many miles from those sandy beaches and jagged cliffs, Army 1LT Charles Wilkins, III, of Columbus, OH, like the thousands of American servicemen who perished before him over 60 years ago, gave his life so that others, too, might enjoy freedom and inherit peace.

On August 20, 2004, 1st Lieutenant Wilkins was killed near Samarra, Iraq, when a roadside explosive detonated near his Humvee. He was 38-years-old.

Today, I would like to pay tribute to this fellow Ohioan and to take a few moments to remember him here in the Senate Chamber. You see, Charles—or Chuck, as he was known to his family and friends—was a deeply devoted, unselfish man. He lived his life with a sense of duty—always dutiful to his country, to his family, to his friends, and to his job. Chuck defined the term “citizen soldier,” balancing his service in the Ohio National Guard with his obligations to his family and his career.

After attending both Bishop Hartley High School and St. Charles Preparatory School, Chuck graduated in 1985, and enlisted in the U.S. Air Force. After his discharge, he enrolled at The Ohio State University to study economics. While in college, Chuck joined the Ohio National Guard because, according to his sister Lorin, “He wanted to be an officer.” After earning his college degree, Chuck took a job as a transportation planner with the Federal Highway Administration, became a volunteer for Habitat for Humanity, and began attending Capital Law School—all while continuing his service in the National Guard.

At any time, Chuck could have quit being a soldier and settled into a quiet life as a civilian. But, that wasn't the type of person he was. Rather, Chuck was the type of person who always gave 100 percent of himself. In addition to his full time job, his military responsibilities, and his law classes, Chuck served as a peer-advisor at Capital for first-year law students.

As someone who also attended law school, myself, I know how difficult and time consuming study can be—and Chuck Wilkins was doing it with a host of additional fulltime commitments! One of his advisees remembered how helpful Chuck was:

Without Chuck, I doubt I would have made it through that very difficult first year [of law school]. He was always positive and upbeat, and he was constantly encouraging [us] to never give up. We could always count on Chuck to lift us up when we were down. It was important to him to make our first year journey a little bit better by sharing things that weren't available to him during his first year. I'm glad he took the time to make our first year law school world a better place.

Chuck Wilkins always made time for others. As one of his co-workers said, "He was always looking out for somebody else, never for himself." It was this sense of selflessness led Chuck to Iraq.

Chuck was a member of the 216th Engineering Battalion, based in Chillicothe, OH. When his original unit was passed over for deployment to Iraq, Chuck sought a transfer to a unit that was scheduled to deploy in February of 2004. The new unit needed officers, and the Iraqi people needed bridges and roads. Once again, Chuck gave of himself so that others would not go without. It was hard for Chuck to leave his career and his law school studies, but as his sister, Lorin, said, "He was Army, through and through. He wanted to help rebuild Iraq so people could have the same freedoms we do."

As I said earlier, Chuck Wilkins wanted the Iraqi people to "enjoy freedom and inherit peace."

Though his sense of duty compelled him to go, it still was hard for Chuck to leave his family—the family he loved so very much. Like any mother, Natalie Wilkins did not want her son to leave for war. She begged him not to go and to seek an exemption, but Chuck would just reply, Mom, I can't stay. I have to go with my men." While his deep sense of duty pulled him away from his loved ones here at home, Chuck remained a family man" in every sense of that phrase. His sister, Lorin, says that Chuck was always there for the family. She said that even with his busy schedule, if you called him, he would be there." He took good care of his mom and dad and his sisters, always making sure that his family was provided for—whether he was home in Ohio or thousands of miles away in Iraq.

Charles Wilkins, Jr.—Chuck's father—says that one of his last memories of his son is of him swimming in a pool, playing with his nephew, laughing. That is when Chuck Wilkins was happiest—that is when he was making others happy, making them feel safe and cared for and protected.

We honor the fallen because they have honored us—with their service, with their sacrifice. Charles Wilkins not only gave himself to his country, he gave a little bit of himself to everyone he met.

When Charles passed away, his mother said that the world lost a good man—a man whose life was bound by duty and good deeds. Our world is the lesser without him, but it is also the better for the time he lived on this earth. Charles Wilkins was a good cit-

izen, a good soldier, a devoted family man, and a compassionate human being. Everyone who met him was touched by him in some way. He will be dearly missed.

My wife Fran and I continue to keep his grandmother, Dorothy; his mother, Natalie; his father, Charles; and his sisters Lorin and Davina in our thoughts and our prayers.

I yield the floor.

#### ALASKA-MONGOLIA TIES

Ms. MURKOWSKI. Mr. President, I rise today to pay tribute to and recognize the contributions of an ally to the United States, an ally that has contributed to our efforts in Afghanistan and Iraq and who has worked in close cooperation with my State of Alaska.

While their contributions have not received the widespread recognition given to other countries, the nation of Mongolia has been a steadfast friend of the United States. They have not been deterred by those critics who deride the quality of the nations included in the coalition forces.

Mongolia's contributions mean a bit more to the State of Alaska. In September 2004, we marked the 1-year anniversary of the start of the Alaska-Mongolia National Guard State Partnership.

Through the State Partnership Program, a true friendship has developed between Mongolia and Alaska. Our National Guard has established broad working relationships and increased exchanges with their Mongolian partners. They stand side by side with the Mongolian Armed Forces in Iraq as they participate in the coalition fighting the global war on terror. In fact, the Mongolian Ministry of Defense specifically requested Alaska National Guard support based on Alaska's relationship with their nation.

I would like to quote MG Craig Gambell that, "[a]s long as the Mongolian Armed Forces are willing to send troops in support of Operation Iraqi Freedom, the Alaska National Guard will continue to stand by their side."

Prior to 2000, Mongolia did not have a national policy of deploying forces beyond its borders. Yet, they were the first coalition country to contribute an infantry battalion to Iraq. The Mongolian Armed Forces are currently providing security to a logistics base in southern Iraq, escorting convoys, constructing military barracks, medical facilities, and local schools. They deserve special recognition for preventing a suicide attack that could have killed hundreds.

Alaska's pairing with Mongolia in the National Guard State Partnership Program is fitting, given our similar geographic size, topography, population density, and climate. The program allows Alaska's soldiers to work with Mongolian forces on professional military skills as well as in military-to-civil and civil-to-civil areas. Beyond the teamwork in Iraq, other events

have been coordinated to keep the partnership together for years to come.

Last year, an Alaska National Guard delegation met with Prime Minister Elbegdorj, as well as other senior level government and military leaders in Mongolia. Already plans to send observers both this year and next have been made.

The success that the partnership enjoyed this past year is a direct reflection of the willingness and eagerness on both sides to further our relations. The Alaska National Guard tells me that Mongolia is enthusiastic about their democratic reforms and is aggressively working to meet its goals.

I thank the leaders of Mongolia for their friendship and support, and I look forward to the continued success of this partnership between the Land of the Midnight Sun and the Land of Blue Sky.

#### CAMBODIAN KHMER NEW YEAR

Mr. REED. Mr. President. I rise today on behalf of my fellow Rhode Islanders to commemorate the 2549th Anniversary of the Buddha, the Khmer New Year.

This 3-day anniversary, which begins today, highlights the rich heritage of Cambodian Americans, while recognizing contemporary Khmerian accomplishments. Specifically, the New Year's festivities celebrate the ancient dance, music, and religious traditions of the Cambodian community. The event also provides older Cambodian Americans with an opportunity to pass their customs down to future generations while simultaneously allowing all Khmerians to share their culture with other Americans.

This celebration traditionally serves as a respite between the Khmerian harvest and the weeks colloquially referred to as the "rainy season." Traditionally, the Anniversary of the Buddha affords Khmerians a chance to give thanks, reflect, and welcome the spirit Tevada Chhnam Thmey. Also, in accordance with tradition, scores of Cambodian-Americans will gather with friends and family to visit local monasteries. While there, the Khmerian people will proffer food to their clergymen, pray for ancestors, give charity to the less-fortunate, forgive the misdeeds of others, and thank elders for their knowledge and care.

The Khmerian ceremonies and activities occurring this week demonstrate that each year brings new opportunities for charity, peace, and happiness. Rhode Islanders witnessed the realization of one such opportunity this year. I was fortunate to work with Miriam Hospital in Providence and Representatives Kennedy and Langevin to obtain visas to reunite Cambodian-Rhode Islander Minea Meas with his family. Three long years after Minea received political asylum in our country, his wife, Chantol Lim, and his children Monita, Sovannra, and Sinvath joyfully relocated from Cambodia to build

a positive future with Minea in Rhode Island. Consequently, the Meas family will never forget the Year of the Monkey.

As we commemorate this important time, let us reflect on recent international affairs and our Nation's continued efforts to promote universal human rights and fundamental democratic ideals. Let us also take this opportunity to honor the Cambodian Americans currently serving in our Nation's military, for helping to preserve the liberties we all enjoy.

Finally, I would like to wish all Cambodian Americans happiness, prosperity, and good health in this, the Year of the Rooster.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MAX M. FISHER

• Mr. VOINOVICH. Mr. President, he was the son of poor Russian immigrants who grew up to be a citizen of the world. He was a skilled businessman who devoted much of his time to giving away millions of dollars to charity. He was a modest man with a low profile who was sought out by world leaders for his advice.

America has lost one of its finest citizens with the passing last month of Max Fisher.

A former Member of this body, Jacob Javits, called Max Fisher "perhaps the single most important lay person in the American Jewish community." If for no other reason, his commitment to the Jewish people would have earned him the title, but the hundreds of millions of dollars he helped raise for Jewish charitable causes further demonstrated his devotion.

Presidents Nixon and Ford turned to him to serve as an unofficial emissary to Israel during times of crisis in the Middle East. His work was hailed by Henry Kissinger in his autobiography.

Though a resident of Michigan as an adult, Max Fisher was no Wolverine. He was a Buckeye through and through. Max grew up in Salem, OH and attended the Ohio State University on a football scholarship. In his time as an athlete the world got a glimpse of the competitive spirit that was to serve him so well in business. In one of his most famous plays as a Buckeye, Max sacrificed four of his teeth when he successfully blocked a punt with his face.

After his graduation from Ohio State in 1930, Max headed for Detroit and began his career as a pioneer in the oil refining business. Max saw that the automobile would transform the nation, and he had the vision to create the refinery capacity necessary to run those millions of new vehicles. He learned the business inside and out and became a legend when he built another oil company—Aurora Gasoline and its affiliate, Speedway '76—that, after a series of mergers, became Marathon Oil in 1962. Twenty years later, U.S. Steel

bought Marathon and the sale of Max Fisher's 600,000 shares added another fortune to his fortune.

Never content to rest on his laurels, Max's business interests continued. He had successful ventures in food processing and real estate, including as a partner in the purchase of the 77,000 acre Irvine Ranch in Orange County, CA, which was the largest private real estate transaction in American history at the time.

One of the traits of Max Fisher that I admire most is that he never abandoned his friends in time of trouble. When others might have told him he had reason to do so, he remained loyal. After his friend Richard Nixon resigned the presidency and entered a long winter as a political pariah, Max reached out to him with encouraging words, writing that "history will record the great contribution you have made to the world." He stuck by his friend Gerald Ford when Jimmy Carter narrowly defeated him in 1976.

Some say that after Ohio State, Detroit was Max's first love. When riots erupted in Detroit in the late 1960s, Max did everything in his power to try to bring people of all races and faiths together. At his funeral, a retired Federal judge told the story of how Max Fisher went down to City Hall to demand the release of African American citizens who were jailed for peaceful protests. Max never gave up on Detroit—and nearly everyone will tell you that without Max, Detroit might not have survived as a viable urban core.

Max had the grace to see the innate value of people as children of God. I always felt good when I met with Max. His honesty was consuming and he made you feel like you were the only person he cared about. His example of giving generously and doing deeds of loving kindness inspired others to follow suit. No one will ever be able to calculate the money that would not have been given without Max's example.

I will never forget the wonderful program that was held to honor Max when we cut the ribbon to open the Max Fisher College of Business at the Ohio State University. I am sure it was a special moment for Max to think about what it meant for the son of an immigrant to have the College of Business named for him at one of the Nation's largest universities. And as an Ohio State alumnus and former football player, I'm sure it was special to know that just a stone's throw away was the Horseshoe where he played football as a student. It was a fitting tribute to a great American who made a difference for his fellow man and country.

Like the Ohio State University's College of Business, the Detroit Symphony Orchestra's performance hall also bears Max's name. These twin monuments to Max Fisher are a fitting tribute to a man who was a genius in business and every bit the passionate humanitarian.

Ours is a better Nation and world for him having been in it. Thank you, Max.●

#### EZION-MOUNT CARMEL UNITED METHODIST CHURCH

• Mr. BIDEN. Mr. President, I rise today to commemorate the 200th anniversary of a true Delaware institution, Ezion-Mount Carmel United Methodist Church. Ezion-Mount Carmel stands as a testament to the power of faith and community. It has survived through several incarnations to become a beacon of light in Wilmington, and a constant reminder that we can—and we must—triumph over adversity.

Ezion-Mount Carmel's history is as complex as one might expect from such a venerable institution. Its genesis was when the African-American members of the Old Asbury Methodist Church, unsatisfied with being forced to worship from the church's balcony, founded their own congregation and helped establish the freedom to worship in Delaware. That congregation would ultimately come to be known as Ezion-Mount Carmel United Methodist Church, and it has survived war, fire and community strife with a clear purpose and mission.

Beyond its extraordinary past, Ezion-Mount Carmel is a dynamic force for good today. One of Wilmington's community outreach leaders, the church offers numerous programs which have a real, positive effect on the often troubled community in which it resides. As it has for two centuries, Ezion-Mount Carmel continues to be a place of refuge and hope for those in need. It is where a congregation and a community gather to gain strength from each other and from God, and to continue a legacy of remarkable achievement.

For its noble past, its exciting present and its promising future, I ask that the Senate join me in congratulating Ezion-Mount Carmel United Methodist Church on its 200th anniversary.●

#### SOO LOCKS ANNIVERSARY

• Mr. LEVIN. Mr. President, this year marks the 150th anniversary of completion of two of the four Soo Locks in the St. Marys River. These locks, completed in 1855, provide the link between Lake Superior and the rest of the Great Lakes at Sault Ste. Marie, MI. These locks have proved to be vital to the economy of the Great Lakes region as well as the nation as a whole. The locks, in fact, handle more cargo than the Panama Canal annually. The history of the Soo Locks is really the story of the settlement of the Midwest and the rise of the region's industrial legacy.

Lake Superior is separated from Lake Huron by the St. Marys River. Prior to the locks, rapids made navigation of this river impossible. The Ojibway Indians, and later white settlers, were forced to portage their small

boats around the rapids to reach Lake Superior. Larger ships had to have their cargo unloaded and then moved by wagon to the other side of the rapids, where it could be loaded onto another ship.

In the 1840s, extensive copper and iron mining began in Michigan's Upper Peninsula, and several boomtowns soon sprang up along Lake Superior's shores. Due to the lack of roads, all travel and trade was done by boat. The increased traffic soon made it clear that continuing the loading and unloading of cargo at Sault Ste. Marie would not be possible.

An act of Congress in 1852 gave 750,000 acres of public land to the State of Michigan for use as compensation to the company that would build a system of locks between Lake Superior and the other Great Lakes. The project was undertaken by the Fairbanks Scale Company due to their mining interests in the Upper Peninsula.

Despite poor building conditions during the cold winters, the two 350-foot locks were constructed within the 2-year deadline set by the State. On May 31, 1855, the locks were turned over to the State of Michigan and named the State Lock.

The opening of the State Lock decreased the cost of shipping iron ore from the Upper Peninsula to industrial centers like Detroit, Chicago, and Cleveland, by more than half. This, along with railroad improvements, allowed Michigan's Upper Peninsula to fuel America's industrial revolution. Michigan was able to lead the nation in iron production for almost 50 years. Even today, about 22 percent of the iron ore produced in the United States comes from Marquette County alone.

In 1881, it became clear that new locks would be necessary to keep up with growing traffic. Additionally, the State did not have the funds to improve the existing locks, so they were transferred to the jurisdiction of the Army Corps of Engineers, where they have been ever since.

The current lock system consists of a total of four locks, two of which are shallower and no longer used. The other two, the MacArthur and the Poe locks, were completed in 1943 and 1968 respectively. The MacArthur lock is used most often and can accommodate ships of up to 800 feet in length. Larger ships need to use the Poe lock as it can handle ships of up to 1,000 feet in length. There are plans to build a new lock in place of the two unused locks, but funding has not been appropriated. Common cargos that pass through the locks today include iron ore, limestone, coal, grain, cement, salt and sand.

Today the Great Lakes shipping industry and the Soo Locks still allow many industries to stay competitive. The Soo Locks shaped the economy of the Great Lakes region, and the engineers who helped design and construct the locks truly deserve to be remembered and honored.●

#### HONORING THE ACCOMPLISHMENTS OF KING'S DAUGHTERS MEDICAL CENTER

● Mr. BUNNING. Mr. President, I pay tribute and congratulate King's Daughters Medical Center of Ashland, KY. This hospital has been named as one of the Solucient Top 100 Hospitals in America.

King's Daughters has been chosen for this award among every hospital in America. This award cannot be applied for; it is simply given to the hospitals that rank among the best in clinical outcomes, patient safety, operational efficiency, financial results, and service to the community. Solucient, a leading source of health care business intelligence, uses these five criteria to independently determine the best hospitals in America.

The citizens of Ashland should be proud of this hospital. Their success serves as an example of how Kentucky is more than capable of providing elite-level health care to its citizens. King's Daughters Medical Center's dedication and hard work should be an inspiration to the health care community of the Commonwealth. I wish them continued success in the future.●

#### SELF-HELP ENTERPRISES

● Mrs. BOXER. Mr. President, I rise to commemorate the 40th anniversary of Self-Help Enterprises. Self-Help is an organization that helps low-income families build their own homes. Now in its 40th year, Self-Help Enterprises has been instrumental in building over 5,000 new homes in the San Joaquin Valley.

As its name implies, Self-Help aids families that try to help themselves. The mission of Self-Help Enterprises stresses that of personal responsibility, pride in ownership and community. Through its various programs Self-Help not only helps to build houses, it builds communities.

To qualify for help a family must demonstrate that it is committed to building their own home and that it is dedicated to helping others in the community. In this way, Self-Help ensures that a sense of community is built. Families receive counseling through every step of the home building process and are taught, not shown, how to build a house so that they may take pride in their work. Each family must contribute at least 40 hours of "sweat equity" a week towards building their home, with a total of 1,300-1,500 hours of labor. Self-Help calls this sweat equity the family's down payment. Families are organized into groups of 10 or 12. From these groups families work to build each others' homes. Through cooperative work Self-Help Enterprises helps an average of 150 families build homes each year.

Self-Help Enterprises also works on Community Development Projects designed to improve the infrastructure present in low-income neighborhoods.

Similarly, Self-Help rehabilitates older homes to help families keep homes that may be run-down, and makes homes safer to live in. To date, Self-Help has rehabilitated 5,000 homes, renovated 20,000 water and sewer connections, and weather-proofed 40,000 homes.

Self-Help understands the importance of providing affordable housing to families. For families who cannot own a home, Self-Help develops multi-family housing projects and establishes rent levels and financing plans to give low-income families a chance to raise their children in a safe and secure environment.

In its mission statement, Self-Help Enterprises states that all families really need is "someone to bridge the gulf between dreams and reality." Self-Help is that bridge. I congratulate Self-Help Enterprises on their 40th anniversary and wish them many more years of continued success.●

#### HABITAT FOR HUMANITY, FRESNO

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the 20th anniversary of Habitat for Humanity, Fresno.

Habitat for Humanity, Fresno was formed in 1985. For the past 20 years, Habitat for Humanity has been a champion in the community on behalf of those who cannot afford homes. The mission of Habitat for Humanity is to end poverty housing "by uniting individuals, families and communities to build decent, affordable housing."

Since its inception, Habitat for Humanity, Fresno has helped build over 35 homes. The process through which it helps to build homes demonstrates its dedication to its mission. Habitat for Humanity stresses that it does not build homes for families. It facilitates the building of homes. While the difference may seem slight, it is in fact one of the sources of success for this organization. To qualify for aid from Habitat for Humanity, families must show that they are invested in building a home. This investment, or dedication, will serve as the foundation from which a house is built.

Habitat for Humanity chooses its families regardless of ethnicity. It provides aid to low income families who show a willingness to partner with the community. This willingness to partner serves to perpetuate an altruistic sense of participation and involvement within the community. And indeed, Habitat for Humanity is fueled by the dedication and goodwill of volunteers.

Since 1985, Habitat for Humanity has hosted over 7,000 volunteers. These volunteers range in age, ethnicity, gender and occupation. The diverse background of these volunteers is representative of the far reach that Habitat for Humanity has in the community.

The homes they construct are built with the love, strength and dedication of a community. The mission of Habitat for Humanity goes far beyond

merely building houses. Through its work in the community Habitat for Humanity not only builds houses, it builds strength within the community and confidence in its recipients.

I congratulate Habitat for Humanity, Fresno on the celebration of its 20th anniversary and wish them continued success.●

#### MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

#### EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 18. An act 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 ground-water remediation program in California, and for other purposes.

H.R. 135. An act to establish the "Twenty-First Century Water Commission" to study and develop recommendations for a comprehensive water strategy to address future water needs.

H.R. 482. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 18. An act 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 ground-water remediation program in California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 135. An act to establish the "Twenty-First Century Water Commission" to study and develop recommendations for a com-

prehensive water strategy to address future water needs; to the Committee on Environmental and Public Works.

H.R. 482. An act to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; to the Committee on Energy and Natural Resources.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes; to the Committee on Indian Affairs.

#### 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-1621. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Administration's 2005 annual report entitled "Atlantic Highly Migratory Species"; to the Committee on Commerce, Science, and Transportation.

EC-1622. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Models 172R, 172S, 182T, and T182T Airplanes; REQUEST FOR COMMENTS" ((RIN2120-AA64) (2005-0173)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1623. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The Cessna Aircraft Company Models 402C, and 414A Airplanes" ((RIN2120-AA64) (2005-0174)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1624. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A310 Series Airplanes; and Model A300 B4-600, B4-600, B4-500R, and F4-600R Series Airplanes, and Model C4 605R Variant F Airplanes; REQUEST FOR COMMENTS" ((RIN2120-AA64) (2005-0175)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1625. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International Inc. TFE731-2 and -3 Series Turbofan Engines" ((RIN2120-AA64) (2005-0169)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1626. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-200 and 300 Series Airplanes; CORRECTION" ((RIN2120-AA64) (2005-0170)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1627. A communication from the Program Analyst, Federal Aviation Administra-

tion, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes" ((RIN2120-AA64) (2005-0160)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1628. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 2000EX and 900EX Series Airplanes" ((RIN2120-AA64) (2005-0161)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1629. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 8 Airplanes" ((RIN2120-AA64) (2005-0146)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1630. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Lrd. Models PC 12 and PC 12/45 Airplanes" ((RIN2120-AA64) (2005-0171)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1631. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6-80C2 Turbofan Engines; CORRECTION" ((RIN2120-AA64) (2005-0166)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1632. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A330, A340-200, and A340-300 Series Airplanes; CORRECTION" ((RIN2120-AA64) (2005-0167)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1633. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aerospatiale Model ATR 42-200, 300, and 320 Series Airplanes" ((RIN2120-AA64) (2005-0157)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1634. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-100B SUD, 200B, 200C, 200F, and 300 Series Airplanes" ((RIN2120-AA64) (2005-0163)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1635. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120-AA64) (2005-0164)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1636. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus



Model A300 B4300 622R and A300 F4 622R Airplanes" ((RIN2120-AA64) (2005-0165)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1637. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Airplanes" ((RIN2120-AA64) (2005-0150)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1638. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-100, 100B, 100B SUD, 200B, 200C, 200F and 300 Series Airplanes and Model 747ST and 747SR Series Airplanes; Equipped with Pratt and Whitney Model JT9D-3 or -7 Series Engines" ((RIN2120-AA64) (2005-0151)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1639. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600); and A310 Series Airplanes" ((RIN2120-AA64) (2005-0162)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1640. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 200B, 200C, 200F, 300, and 747SR Series Airplanes Equipped with General Electric CF6-45 or 50 Series Engines" ((RIN2120-AA64) (2005-0168)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1641. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600, 600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes; and Model A310 Series Airplanes; Equipped with Certain Honeywell Inertial Reference Units" ((RIN2120-AA64) (2005-0148)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1642. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Limited Model BAe 146 and Avro 146RJ Series Airplanes" ((RIN2120-AA64) (2005-0158)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1643. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90 30 Airplanes" ((RIN2120-AA64) (2005-0159)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1644. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200, 200CB, and 200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines" ((RIN2120-AA64) (2005-0152)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1645. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 135 and 145 Series Airplanes" ((RIN2120-AA64) (2005-0153)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1646. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eagle Aircraft Sdn. Bhd. Model Eagle 150B Airplanes" ((RIN2120-AA64) (2005-0154)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1647. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT9D-59A, 70A, 7Q and 7Q3 Turbofan Engines" ((RIN2120-AA64) (2005-0155)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1648. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc Models 768-60, 772-60, and 772B-60 Turbofan Engines" ((RIN2120-AA64) (2005-0156)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1649. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90 30 Airplanes" ((RIN2120-AA64) (2005-0144)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1650. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200 Series Airplanes" ((RIN2120-AA64) (2005-0145)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1651. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes" ((RIN2120-AA64) (2005-0147)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1652. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes" ((RIN2120-AA64) (2005-0149)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1653. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328-300 Series Airplanes" ((RIN2120-AA64) (2005-0142)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1654. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing

Model 737-300, 400, and 500 Series Airplanes Modified in Accordance with Supplemental Type Certificate" ((RIN2120-AA64) (2005-0143)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1655. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing 737-600, 700, 700C, 800, and 900 Series Airplanes" ((RIN2120-AA64) (2005-0139)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1656. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B and EC 155B1 Helicopters" ((RIN2120-AA64) (2005-0140)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1657. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3 60 Series Airplanes" ((RIN2120-AA64) (2005-0127)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1658. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, BA, BI, B2, B3, C, D, DI, and EC130 B4 Helicopters" ((RIN2120-AA64) (2005-0128)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1659. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B, EC155B1, SA 360C, SA 365C, SA 365C1, SA 365C2, SA 365N, SA 365N1, AS 365N2, AS 365 N3, and SA 366G1 Helicopters" ((RIN2120-AA64) (2005-0129)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1660. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes" ((RIN2120-AA64) (2005-0130)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1661. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600-2B19 Airplanes" ((RIN2120-AA64) (2005-0120)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Model GV SP Series Airplanes" ((RIN2120-AA64) (2005-0119)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General

Electric Company CT58 Series and Surplus Military T58 Series Turbohaft Engines" ((RIN2120-AA64) (2005-0124)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2B19 Airplanes and Model CL 600 1A11, 2A12, and CL 600 2B16, Series Airplanes" ((RIN2120-AA64) (2005-0123)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CORRECTION - Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes" ((RIN2120-AA64) (2005-0137)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron Canada Model 407 Helicopters" ((RIN2120-AA64) (2005-0136)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-200 and 300 Series Airplanes" ((RIN2120-AA64) (2005-0135)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1668. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce Deutschland Ltd. and Co KG Model Tay 611-8, 620-15, 650-15, and 651-54 Turbofan Engines" ((RIN2120-AA64) (2005-0138)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1669. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model DH 125, HS 125, and BH 125 Series Airplanes; BAe 125 Series 800A, and 800B Airplanes; and Hawker 800 and 800XP Airplanes; Equipped with TFE731 Engines" ((RIN2120-AA64) (2005-0132)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1670. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes and Model Avro 146 RJ Series Airplanes" ((RIN2120-AA64) (2005-0133)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1671. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron A Division of Textron Canada Model 222, 222B, 222U, and 230 Helicopters" ((RIN2120-AA64) (2005-0134)) received on April 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1672. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, trans-

mitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Mifflintown, PA" ((RIN2120-AA66) (2005-0080)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1673. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Beluga, AK" ((RIN2120-AA66) (2005-0065)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation; to the Committee on Commerce, Science, and Transportation.

EC-1674. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Red Dog, AK" ((RIN2120-AA66) (2005-0059)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1675. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Badami, AK" ((RIN2120-AA66) (2005-0060)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1676. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Haines, AK" ((RIN2120-AA66) (2005-0058)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1677. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Angoon, AK" ((RIN2120-AA66) (2005-0064)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1678. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Kulik Lake, AK" ((RIN2120-AA66) (2005-0057)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1679. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Prospect Creek, AK" ((RIN2120-AA66) (2005-0056)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1680. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Seward, AK" ((RIN2120-AA66) (2005-0055)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Annette Island, Metlakatla, AK" ((RIN2120-AA66) (2005-0061)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Coffeyville, KS" ((RIN2120-AA66) (2005-0078))

received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Macon, MO" ((RIN2120-AA66) (2005-0075)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Neosho, MO" ((RIN2120-AA66) (2005-0076)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla/Vichy, MO" ((RIN2120-AA66) (2005-0077)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mount Comfort, IN" ((RIN2120-AA66) (2005-0070)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Hibbing, MN" ((RIN2120-AA66) (2005-0069)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mean, AR" ((RIN2120-AA66) (2005-0066)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1689. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Mountain Grove, MO" ((RIN2120-AA66) (2005-0068)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1690. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Lexington, MO; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0049)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1691. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla, MO" ((RIN2120-AA66) (2005-0046)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1692. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Rolla/Vivhy, MO" ((RIN2120-AA66) (2005-0047)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Boone, IA; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120-AA66) (2005-0048)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Coffeyville, KS" ((RIN2120-AA66) (2005-0053)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Nevada, MO" ((RIN2120-AA66) (2005-0041)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Ozark, MO" ((RIN2120-AA66) (2005-0040)) received on April 4, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs:

Special Report entitled "The Role of Professional Firms in the U.S. Tax Shelter Industry" (Rept. No. 109-54).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs:

Special Report entitled "Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling" (Rept. No. 109-55).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 362. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes (Rept. No. 109-56).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 39. A bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration (Rept. No. 109-57).

S. 148. A bill to establish a United States Boxing Commission to administer the Act, and for other purposes (Rept. No. 109-58).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

\*David Garman, of Virginia, to be Under Secretary of Energy.

By Mr. INHOFE for the Committee on Environment and Public Works.

\*John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

\*Luis Luna, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency.

\*Stephen L. Johnson, of Maryland, to be Administrator of the Environmental Protection Agency.

\*D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.

\*Michael Butler, of Tennessee, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.

\*Major General Don T. Riley, United States Army, to be a Member and President of the Mississippi River Commission.

\*Brigadier General William T. Grisoli, United States Army, to be a Member of the Mississippi River Commission.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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 Ms. SNOWE:

S. 769. A bill to enhance compliance assistance for small businesses; to the Committee on Small Business and Entrepreneurship.

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. JEFFORDS, Ms. STABENOW, Mr. DEWINE, Mr. BAYH, Mr. DAYTON, Mr. LEAHY, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WARNER, and Mr. AKAKA):

S. 770. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

By Mr. ALLARD:

S. 771. A bill to better assist low-income families to obtain decent, safe, and affordable housing as a means of increasing their economic and personal well-being through the conversion of the existing section 8 housing choice voucher program into a flexible voucher program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN (for himself and Mr. HARKIN):

S. 772. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Finance.

By Mr. CORZINE:

S. 773. A bill to ensure the safe and secure transportation by rail of extremely hazardous materials; to the Committee on Commerce, Science, and Transportation.

By Mr. BUNNING:

S. 774. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 775. A bill to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. JOHNSON (for himself, Mr. THUNE, Mr. DAYTON, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. ROCKEFELLER):

S. 776. A bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES:

S. 777. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 778. A bill to amend title XVIII and XIX of the Social Security Act to require a pharmacy that receives payments or has contracts under the medicare and medicaid programs to ensure that all valid prescriptions are filled without unnecessary delay or interference; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. LEVIN):

S. 779. A bill to amend the Internal Revenue Code of 1986 to treat controlled foreign corporations established in tax havens as domestic corporations; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. Res. 106. A resolution congratulating the University of Denver Pioneers men's hockey team, 2005 National Collegiate Athletic Association Division I Hockey Champions; considered and agreed to.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 65, a bill to amend the age restrictions for pilots.

S. 172

At the request of Mr. DEWINE, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. HARKIN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 172, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 288

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 288, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 289

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 289, a bill to authorize an annual appropriation of \$10,000,000 for mental health courts through fiscal year 2011.

S. 300

At the request of Ms. COLLINS, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 308

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 308, a bill to require that Homeland Security grants related to terrorism preparedness and prevention be awarded based strictly on an assessment of risk, threat, and vulnerabilities.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 352, a bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes.

S. 357

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 357, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 424

At the request of Mr. BOND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 432

At the request of Mr. ALLEN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 467

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 557

At the request of Mr. COBURN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 557, a bill to provide that Executive Order 13166 shall have no force or effect, to prohibit the use of funds for certain purposes, and for other purposes.

S. 582

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 633, 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. 697

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 697, a bill to amend the Higher Education Act of 1965 to improve higher education, and for other purposes.

S. 757

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 758

At the request of Mr. ALLEN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service.

S. 765

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. CON. RES. 17

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution calling on the North Atlantic Treaty Organization to assess the potential effectiveness of and requirements for a NATO-enforced no-fly zone in the Darfur region of Sudan.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 316 intended

to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 333

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Illinois (Mr. DURBIN), the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 333 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 334

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from Illinois (Mr. DURBIN), the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 334 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 340

At the request of Mr. DEWINE, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Colorado (Mr. SALAZAR) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 340 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related

grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

## AMENDMENT NO. 341

At the request of Mr. DEWINE, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. CORZINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 341 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

## AMENDMENT NO. 342

At the request of Mr. DEWINE, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Illinois (Mr. DURBIN), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 342 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

## AMENDMENT NO. 356

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Mr. SARBANES), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 356 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

At the request of Mr. OBAMA, his name was added as a cosponsor of

amendment No. 356 proposed to H.R. 1268, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 769. A bill to enhance compliance assistance for small businesses; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, as Chair of the Senate Committee on Small Business and Entrepreneurship, regulatory fairness remains one of my top priorities. In 1996, I was pleased to support, along with all of my colleagues, the Small Business Regulatory Enforcement Fairness Act, SBREFA, which made the Regulatory Flexibility Act more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA compels agencies to produce compliance assistance materials to help small businesses satisfy the requirements of agency regulations. Unfortunately, over the years, agencies have failed to achieve this requirement. Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulations.

The Government Accountability Office, GAO, found that agencies have ignored this requirement or failed miserably in their attempts to satisfy it. The GAO also found that SBREFA's language is unclear in some places about what is actually required. That is why today, I am introducing The Small Business Compliance Assistance Enhancement Act of 2005, to close those loopholes, and to make it clear that we were serious when we first told agencies, and that we want them to produce quality compliance assistance materials to help small businesses understand how to deal with regulations.

My bill is drawn directly from the GAO recommendations and is intended only to clarify an already existing requirement—not to add anything new. Similarly, the compliance guides that the agencies will produce will be suggestions about how to satisfy a regulation's requirements, and will not impose further requirements or additional enforcement measures. Nor does this bill, in any way, interfere or undercut agencies' ability to enforce their regulations to the full extent they currently enjoy. Bad actors must be brought to justice, but if the only trigger for compliance is the threat of enforcement, then agencies will never achieve the goals at which their regulations are directed.

The key to helping small businesses comply with these regulations is to provide assistance—showing them what is necessary and how they will be able to tell when they have met their obligations. Too often, small businesses do

not maintain the staff, or possess the resources to answer these questions. This is a disadvantage when compared to larger businesses, and reduces the effectiveness of the agency's regulations. The SBA's Office of Advocacy has determined that regulatory compliance costs small businesses with less than 20 employees almost \$7,000 per employee, compared to almost \$4,500 for companies with more than 500 employees. If an agency can not describe how to comply with its regulation, how can we expect a small business to figure it out? This is the reason the requirement to provide compliance assistance was originally included in SBREFA. That reason is as valid today as it was in 1996.

Specifically, my bill would do the following:

Clarify how a guide shall be designated: Section 212 of SBREFA currently requires that agencies "designate" the publications prepared under the section as small entity compliance guides. However, the form in which those designations should occur is not clear. Consistent use of the phrase "Small Entity Compliance Guide" in the title could make it easier for small entities to locate the guides that the agencies develop. This would also aid in using on line searches—a technology that was not widely used when SBREFA was passed. Thus, agencies would be directed to publish guides entitled "Small Entity Compliance Guide."

Clarify how a guide shall be published: Section 212 currently states agencies "shall publish" the guides, but does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the Federal Register to obtain the guides. Agencies would be directed, at a minimum, to make their compliance guides available through their websites in an easily accessible way. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation.

Clarify when a guide shall be published: Section 212 does not indicate when the compliance guides should be published. Therefore, even if an agency is required to produce a compliance guide, it can claim that it has not violated the publishing requirement because there is no clear deadline. Agencies would be instructed to publish the compliance guides simultaneously with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Clarify the term "compliance requirements": The term "compliance requirements" also needs to be clarified. At a minimum, compliance requirements must identify what small

businesses must do to satisfy the requirements and how they will know that they have met these requirements. This should include a description of the procedures a small business might use to meet the requirements. For example, if, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing might be conducted. The bill makes clear that the procedural description should be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach.

It is time we get serious about ensuring that small businesses have the assistance they need to deal with the maze of Federal regulations we expect them to handle on a daily basis. The Small Business Compliance Assistance Enhancement Act of 2005 will make a significant contribution to that effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 769

*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 “Small Business Compliance Assistance Enhancement Act of 2005”.

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, and pay 44.3 percent of total United States private payroll.

(2) Small businesses generated 60 to 80 percent of net new jobs annually over the last decade.

(3) Very small firms with fewer than 20 employees spend 60 percent more per employee than larger firms to comply with Federal regulations. Small firms spend twice as much on tax compliance as their larger counterparts. Based on an analysis in 2001, firms employing fewer than 20 employees face an annual regulatory burden of nearly \$7,000 per employee, compared to a burden of almost \$4,500 per employee for a firm with over 500 employees.

(4) Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) requires agencies to produce small entity compliance guides for each rule or group of rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code.

(5) The Government Accountability Office has found that agencies have rarely attempted to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note). When agencies did try to comply with that requirement, they generally did not produce adequate compliance assistance materials.

(6) The Government Accountability Office also found that section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) and other sections of that Act need clarification to be effective.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To clarify the requirement contained in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) for agencies to produce small entity compliance guides.

(2) To clarify other terms relating to the requirement in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

(3) To ensure that agencies produce adequate and useful compliance assistance materials to help small businesses meet the obligations imposed by regulations affecting such small businesses, and to increase compliance with these regulations.

#### SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

“(a) COMPLIANCE GUIDE.—

“(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’.

“(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

“(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4) COMPLIANCE ACTIONS.—

“(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) EXPLANATION.—The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements relating to the rule.

“(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) REPORTING.—Not later than 1 year after the date of enactment of the Small

Business Compliance Assistance Enhancement Act of 2005, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency’s compliance with paragraphs (1) through (5).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting “and entitled” after “designated”.

By Mr. LEVIN (for himself, Ms. COLLINS, Mr. JEFFORDS, Ms. STABENOW, Mr. DEWINE, Mr. BAYH, Mr. DAYTON, Mr. LEAHY, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WARNER, and Mr. AKAKA):

S. 770. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today my colleague from Maine, Senator COLLINS and I are very pleased to introduce the National Aquatic Invasive Species Act of 2005. This bill, which reauthorizes the Nonindigenous Aquatic Nuisance Prevention and Control Act, takes a comprehensive approach towards addressing aquatic nuisance species to protect the nation’s aquatic ecosystems. Invasive species are not a new problem for this country, but what is so important about this bill is that this is the first real effort to take a comprehensive approach toward the problem of aquatic invasive species. The bill deals with the prevention of introductions, the screening of new aquatic organisms that do come into the country, the rapid response to invasions, and the research to implement the provisions of this bill.

During the development of this country, there were more than people immigrating to this country. More than 6,500 non-indigenous invasive species have been introduced into the United States and have become established, self-sustaining populations. These species—from microorganisms to mollusks, from pathogens to plants, from insects to fish to animals—typically encounter few, if any, natural enemies in their new environments and wreak havoc on native species. Aquatic nuisance species threaten biodiversity nationwide, especially in the Great Lakes.

In fact, the aquatic nuisance species became a major issue for Congress back in the late eighties when the zebra mussel was released into the Great Lakes. The Great Lakes still have zebra mussels, and now, 20 States are fighting to control them. The Great Lakes region spends about \$30 million per year to keep water pipes from becoming clogged with zebra mussels.

Zebra mussels were carried over from the Mediterranean to the Great Lakes in the ballast tanks of ships. The leading pathway for aquatic invasive species was and still is maritime commerce. Most invasive species are contained in the water that ships use for

ballast to maintain trim and stability. Aquatic invaders such as the zebra mussel and round goby were introduced into the Great Lakes when ships, often from nations, pulled into port and discharged their ballast water. In addition to ballast water, aquatic invaders can also attach themselves to ships' hulls and anchor chains.

Because of the impact that the zebra mussel had in the Great Lakes, Congress passed legislation in 1990 and 1996 that has reduced, but not eliminated, the threat of new invasions by requiring ballast water management for ships entering the Great Lakes. Today, there is a mandatory ballast water management program in the Great Lakes, and the Coast Guard is in the rule-making process to turn the voluntary ballast water exchange reporting requirement into a mandatory ballast water exchange program for all of our coasts. The current law requires that ships entering the Great Lakes must exchange their ballast water, seal their ballast tanks or use alternative treatment that is "as effective as ballast water exchange." Unfortunately, alternative treatments have not been fully developed and widely tested on ships because the developers of ballast technology do not know what standard they are trying to achieve. This obstacle is serious because ultimately, only on-board ballast water treatment will adequately reduce the threat of new aquatic nuisance species being introduced through ballast water.

Our bill addresses this problem. First, this bill establishes a deadline for the Coast Guard and EPA to establish a standard for ballast water management and requires that the standard reduce the number of plankton in the ballast water by 99 percent or the best performance that technology can provide. This way, technology vendors and the maritime industry know what they should be striving to achieve and when they will be expected to achieve it. After 2011, all ships that enter any U.S. port after operating outside the Exclusive Economic Zone of 200 miles will be required to use a ballast water treatment technology that meets this standard.

I understand that ballast water technologies are being researched, and some are currently being tested on-board ships. The range of technologies include ultraviolet lights, filters, chemicals, deoxygenation, ozone, and several others. Each of these technologies has a different price tag attached to it. It is not my intention to overburden the maritime industry with an expensive requirement to install technology. In fact, the legislation states that the final ballast water technology standard must be based on the best performing technology that is economically achievable. That means that the Coast Guard must consider what technology is available, and if there is no economically achievable technology available to a class of vessels, then the standard will not require ballast tech-

nology for that class of vessels, subject to review every three years. I do not believe this will be the case, however, because the approach of this bill creates a clear incentive for treatment vendors to develop affordable equipment for the market.

Technology will always be evolving, and we hope that affordable technology will become available that completely eliminates the risk of new introductions. Therefore, it is important that the Coast Guard regularly review and revise the standard so that it reflects what the best technology currently available is and whether it is economically achievable.

There are other important provisions of the bill that also address prevention. For instance, the bill encourages the Coast Guard to consult with Canada, Mexico, and other countries in developing guidelines to prevent the introduction and spread of aquatic nuisance species. The Aquatic Nuisance Species Task Force is also charged with conducting a pathway analysis to identify other high risk pathways for introduction of nuisance species and implement management strategies to reduce those introductions. And this legislation, for the first time, establishes a process to screen live organisms entering the country for the first time for non-research purposes. Organisms believed to be invasive would be imported based on conditions that prevent them from becoming a nuisance. Such a screening process might have prevented such species as the Snakehead, which has established itself in the Potomac River here in the DC area, from being imported.

The third title of this bill addresses early detection of new invasions and the rapid response to invasions as well as the control of aquatic nuisance species that do establish themselves. If fully funded, this bill will provide a rapid response fund for states to implement emergency strategies when outbreaks occur. The bill requires the Army Corps of Engineers to construct and operate the Chicago Ship and Sanitary Canal project which includes the construction of a second dispersal barrier to keep species like the Asian carp from migrating up the Mississippi through the Canal into the Great Lakes. Equally important, this barrier will prevent the migration of invasive species in the Great Lakes from proceeding into the Mississippi system.

Lastly, the bill authorizes additional research which will identify threats and the tools to address those threats.

Though invasive species threaten the entire Nation's aquatic ecosystem, I am particularly concerned with the damage that invasive species have done to the Great Lakes. There are now roughly 180 invasive species in the Great Lakes, and it is estimated that a new species is introduced every 8 months. Invasive species cause disruptions in the food chain, which is now causing the decline of certain fish. Invasive species are believed to be the

cause of a new dead zone in Lake Erie. And invasive species compete with native species for habitat.

This bill addresses the "NOBOB" or No Ballast on Board problem which is when ships report having no ballast when they enter the Great Lakes. However, a layer of sediment and small bit of water that cannot be pumped out is still in the ballast tanks. So when water is taken on and then discharged all within the Great Lakes, a new species that was still living in that small bit of sediment and water may be introduced. By requiring technology to be installed, this bill addresses a very serious issue in the Great Lakes.

All in all, the bill would cost between \$160 million and \$170 million each year. This is a lot of money, but it is a critical investment. As those of us from the Great Lakes know, the economic damage that invasive species can cause is much greater. However, compared to the annual cost of invasive species, the cost of this bill is minimal. Therefore, I urge my colleagues to cosponsor this legislation and work to move the bill swiftly through the Senate.

Ms. COLLINS. Mr. President, from Pickerel Pond to Lake Auburn, from Sebago Lake to Bryant Pond, lakes and ponds in Maine are under attack. Aquatic invasive species threaten Maine's drinking water systems, recreation, wildlife habitat, lakefront real estate, and fisheries. Plants, such as Variable Leaf Milfoil, are crowding out native species. Invasive Asian shore crabs are taking over Southern New England's tidal pools and have advanced well into Maine—to the potential detriment of Maine's lobster and clam industries.

I rise today to join Senator LEVIN in introducing legislation to address this problem. The National Aquatic Invasive Species Act of 2005 would create the most comprehensive nationwide approach to date for combating alien species that invade our shores.

The stakes are high when invasive species are unintentionally introduced into our Nation's waters. They endanger ecosystems, reduce biodiversity, and threaten native species. They disrupt people's lives and livelihoods by lowering property values, impairing commercial fishing and aquaculture, degrading recreational experiences, and damaging public water supplies.

In the 1950s, European Green Crabs swarmed the Maine coast and literally ate the bottom out of Maine's soft-shell clam industry by the 1980s. Many clam diggers were forced to go after other fisheries or find new vocations. In just one decade, this invader reduced the number of clam diggers in Maine from nearly 5,000 in the 1940s to fewer than 1500 in the 1950s. European green crabs currently cost an estimated \$44 million a year in damage and control efforts in the United States.

Past invasions forewarn of the long-term consequences to our environment and communities unless we take steps to prevent new invasions. It is too late

to stop European green crabs from taking hold on the East Coast, but we still have the opportunity to prevent many other species from taking hold in Maine and the United States.

Senator LEVIN and I introduced an earlier version of this legislation in March of 2003. Just a few months earlier, one of North America's most aggressive invasive species hydrilla—was found in Maine for the first time. This stubborn and fast-growing aquatic plant had taken hold in Pickerel Pond in the Town of Limerick, ME, and threatened recreational use for swimmers and boaters. At the time, we warned that unless Congress acted, more and more invasive species would establish a foothold in Maine and across the country.

Unfortunately, Congress failed to act on our legislation and new invasions have continued. In December, for the first time, the Maine Department of Environmental Protection detected Eurasian Milfoil in the State. Maine was the last of the lower 48 States to be free of this stubborn and fast-growing invasive plant that degrades water quality by displacing native plants, fish and other aquatic species. The plant forms stems reaching up to 20 feet high that cause fouling problems for swimmers and boaters. In total, there are 24 documented cases of aquatic invasive species infesting Maine's lakes and ponds.

When considering the impact of these invasive species, it is important to note the tremendous value of our lakes and ponds. While their contribution to our quality of life is priceless, their value to our economy is more measurable. Maine's Great Ponds generate nearly 13 million recreational user days each year, lead to more than \$1.2 billion in annual income for Maine residents, and support more than 50,000 jobs.

With so much at stake, Mainers are taking action to stop the spread of invasive species into our State's waters. The State of Maine has made it illegal to sell, possess, cultivate, import or introduce eleven invasive aquatic plants. Boaters participating in the Maine Lake and River Protection Sticker program are providing needed funding to aid efforts to prevent, detect and manage aquatic invasive plants. Volunteers are participating in the Courtesy Boat Inspection program to keep aquatic invasive plants out of Maine lakes. Before launch or after removal, inspectors ask boaters for permission to inspect the boat, trailer or other equipment for plants. More than 300 trained inspectors conducted upwards of 30,000 courtesy boat inspections at 65 lakes in the 2004 boating season.

While I am proud of the actions that Maine and many other States are taking to protect against invasive species, all too often their efforts have not been enough. As with national security, protecting the integrity of our lakes, streams, and coastlines from invading

species cannot be accomplished by individual States alone. We need a uniform, nationwide approach to deal effectively with invasive species. The National Aquatic Invasive Species Act of 2005 will help my State and States throughout the Nation detect, prevent and respond to aquatic invasive species.

The National Aquatic Invasive Species Act of 2005 would be the most comprehensive effort ever undertaken to address the threat of invasive species. By authorizing \$836 million over 6 years, this legislation would open numerous new fronts in our war against invasive species. The bill directs the Coast Guard to develop regulations that will end the easy cruise of invasive species into U.S. waters through the ballast water of international ships, and would provide the Coast Guard with \$6 million per year to develop and implement these regulations.

The bill also would provide \$30 million per year for a grant program to assist State efforts to prevent the spread of invasive species. It would provide \$12 million per year for the Army Corps of Engineers and Fish and Wildlife Service to contain and control invasive species. Finally, the Levin-Collins bill would authorize \$30 million annually for research, education, and outreach.

Mr. President, the most effective means of stopping invading species is to attack them before they attack us. We need an early alert, rapid response system to combat invading species before they have a chance to take hold. For the first time, this bill would establish a national monitoring network to detect newly introduced species, while providing \$25 million to the Secretary of the Interior to create a rapid response fund to help States and regions respond quickly once invasive species have been detected. This bill is our best effort at preventing the next wave of invasive species from taking hold and decimating industries and destroying waterways in Maine and throughout the country.

One of the leading pathways for the introduction of aquatic organisms to U.S. waters from abroad is through transoceanic vessels. Commercial vessels fill and release ballast tanks with seawater as a means of stabilization. The ballast water contains live organisms from plankton to adult fish that are transported and released through this pathway. Last week, a Federal judge ruled that the Government can no longer allow ships to dump, without a permit from the Environmental Protection Agency, any ballast water containing nonnative species that could harm local ecosystems. The court case and subsequent decision indicates that there are problems with our existing systems to control ballast water discharge and signals a need to address invasive hitchhikers that travel to our shores aboard ships. Our legislation would establish a framework to prevent the introduction of aquatic invasive species by ships.

The National Aquatic Invasive Species Act of 2005 offers a strong framework to combat aquatic invasive species. I call on my colleagues to help us enact this legislation in order to protect our waters, ecosystems, and industries from destructive invasive species—before it's too late.

By Mr. CORZINE:

S. 773. A bill to ensure the safe and secure transportation by rail of extremely hazardous materials; to the Committee on Commerce, Science, and Transportation.

Mr. CORZINE. Mr. President, today I am introducing legislation, the Extremely Hazardous Materials Rail Transportation Act of 2005, to ensure the safety and security of toxic chemicals that are transported across our nation's 170,000 mile rail network.

On January 6, 2005, a freight car carrying toxic chlorine gas derailed in South Carolina. The derailment caused a rupture that released a deadly gas cloud over the nearby community of Graniteville. As a result of this accident, nine people died and 318 needed medical attention. Many of those needing medical attention were first responders who arrived at the scene of the accident unaware that a tank car containing chlorine gas had ruptured. As one responder described it, "I took a breath. That stuff grabbed me. It gagged me and brought me down to my knees. I talked to God and said, 'I am not dying here.'" In the aftermath of the chlorine release, more than 5,000 area residents needed to be evacuated from their homes.

The Graniteville accident was the deadliest accident involving the transport of chlorine. But it was not the first. Since the use of rail for chlorine transport began in 1924, there had been four fatal accidents involving the release of chlorine, according to the Chlorine Institute. Thirteen people have died. In addition, the National Transportation Safety Board has investigated 14 derailments from 1995 to 2004 that caused the release of hazardous chemicals, including chlorine. In those instances, four people died and 5,517 were injured.

The Graniteville accident exposes fundamental failings in the transport of hazardous materials on America's rail system. These failings include pressurized rail tank cars that are vulnerable to rupture; lack of sufficient training for transporters and emergency responders; lack of sufficient notification to the communities that hazardous material train run through and a lack of coordination at the federal level between the many agencies that are involved in rail transport of hazardous materials.

Because of these failings, our Nation's freight rail infrastructure remains vulnerable to the release of hazardous materials either by accident or due to deliberate attack. The "Extremely Hazardous Material Rail Transportation Act addresses these



safety and security issues. My legislation would require the DHS to coordinate Federal, State and local efforts to prevent terrorist acts and to respond to emergencies in the transport by rail of extremely hazardous materials. It requires the DHS to issue regulations that address the integrity of pressurized tank cars, the lack of sufficient training for transporters and emergency responders, and the lack of sufficient notification for communities. It would also require the DHS to study the possibility of reducing, through the use of alternate routes, the risks of freight transportation of extremely hazardous material; except in the case of emergencies or where such alternatives do not exist or are prohibitively expensive. Finally, it contains protections for employees who report on the safety and security of transportation by rail of extremely hazardous materials.

I hope my colleagues will support this legislation, and 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. 773

*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 "Extremely Hazardous Materials Rail Transportation Act of 2005".

**SEC. 2. COORDINATION OF PRECAUTIONS AND RESPONSE EFFORTS RELATED TO THE TRANSPORTATION BY RAIL OF EXTREMELY HAZARDOUS MATERIALS.**

(a) REGULATIONS.—

(1) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other Federal, State, and local agencies, prescribe regulations for the coordination of efforts of Federal, State, and local agencies aimed at preventing terrorist acts and responding to emergencies that may occur in connection with the transportation by rail of extremely hazardous materials.

(2) CONTENT.—

(A) IN GENERAL.—The regulations required under paragraph (1) shall—

(i) require, and establish standards for, the training of individuals described in subparagraph (B) on safety precautions and best practices for responding to emergencies occurring in connection with the transportation by rail of extremely hazardous materials, including incidents involving acts of terrorism; and

(ii) establish a coordinated system for notifying appropriate Federal, State, and local law enforcement authorities (including, if applicable, transit, railroad, or port authority police agencies) and first responders of the transportation by rail of extremely hazardous materials through communities designated as area of concern communities by the Secretary of Homeland Security under subsection (b)(1).

(B) INDIVIDUALS COVERED BY TRAINING.—The individuals described in subparagraph (A)(i) are first responders, law enforcement personnel, and individuals who transport, load, unload, or are otherwise involved in the

transportation by rail of extremely hazardous materials or who are responsible for the repair of related equipment and facilities in the event of an emergency, including an incident involving terrorism.

(b) AREA OF CONCERN COMMUNITIES.—

(1) DESIGNATION OF AREA OF CONCERN COMMUNITIES.—

(A) IN GENERAL.—In prescribing regulations under subsection (a), the Secretary of Homeland Security shall compile a list of area of concern communities.

(B) CRITERIA.—The Secretary of Homeland Security shall include on such list communities through or near which the transportation by rail of extremely hazardous materials poses a serious risk to the public health and safety. In making such determination, the Secretary shall consider—

(i) the severity of harm that could be caused in a community by the release of the transported extremely hazardous materials;

(ii) the proximity of a community to major population centers;

(iii) the threat posed by such transportation to national security, including the safety and security of Federal and State government offices;

(iv) the vulnerability of a community to acts of terrorism;

(v) the threat posed by such transportation to critical infrastructure;

(vi) the threshold quantities of particular extremely hazardous materials that pose a serious threat to the public health and safety; and

(vii) such other safety or security factors that the Secretary determines appropriate to consider.

(2) CONSIDERATION OF ALTERNATE ROUTES.—

The Secretary of Homeland Security shall conduct a study to consider the possibility of reducing, through the use of alternate routes involving lower security risks, the security risks posed by the transportation by rail of extremely hazardous materials through or near communities designated as area of concern communities under paragraph (1), except in the case of emergencies or where such alternatives do not exist or are prohibitively expensive.

**SEC. 3. PRESSURIZED RAILROAD CARS.**

(a) NEW SAFETY STANDARDS.—

(1) REQUIREMENT FOR STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other relevant Federal agencies, prescribe by regulations standards for ensuring the safety and physical integrity of pressurized tank cars that are used in the transportation by rail of extremely hazardous materials.

(2) CONSIDERATION OF SPECIFIC RISKS.—In prescribing regulations under paragraph (1), the Secretary of Homeland Security shall consider the risks posed to such pressurized tank cars by acts of terrorism, accidents, severe impacts, and other actions potentially threatening to the structural integrity of the cars or to the safe containment of the materials carried by such cars.

(b) REPORT ON IMPACT RESISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation and the heads of other relevant Federal agencies, submit to the appropriate congressional committees a report on the safety and physical integrity of pressurized tank cars that are used in the transportation by rail of extremely hazardous materials, including with respect to the risks considered under subsection (a)(2).

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) the results of a study on the impact resistance of such pressurized tank cars, including a comparison of the relative impact resistance of tank cars manufactured before and after the implementation by the Administrator of the Federal Railroad Administration in 1989 of Federal standards on the impact resistance of such tank cars; and

(B) an assessment of whether tank cars manufactured before the implementation of the 1989 impact resistance standards and tank cars manufactured after the implementation of such standards conform with the standards prescribed under subsection (a).

**SEC. 4. REPORT ON EXTREMELY HAZARDOUS MATERIALS TRANSPORT SAFETY.**

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, in consultation with the Secretary of Transportation, submit to the appropriate congressional committees a report on the safety and security of the transportation by rail of extremely hazardous materials, including the threat posed to the security of such transportation by acts of terrorism.

(b) CONTENT.—The report required under subsection (a) shall include, in a form that does not compromise national security—

(1) information specifying—

(A) the Federal and State agencies that are responsible for the oversight of the transportation by rail of extremely hazardous materials; and

(B) the particular authorities and responsibilities of the heads of each such agency;

(2) an assessment of the operational risks associated with the transportation by rail of extremely hazardous materials, with consideration given to the safety and security of the railroad infrastructure in the United States, including railroad bridges and rail switching areas;

(3) an assessment of the vulnerability of railroad cars to acts of terrorism while being used to transport extremely hazardous materials;

(4) an assessment of the ability of individuals who transport, load, unload, or are otherwise involved in the transportation by rail of extremely hazardous materials or who are responsible for the repair of related equipment and facilities in the event of an emergency, including an incident involving terrorism, to respond to an incident involving terrorism, including an assessment of whether such individuals are adequately trained or prepared to respond to such incidents;

(5) a description of the study conducted under section 2(b)(2), including the conclusions reached by the Secretary of Homeland Security as a result of such study and any recommendations of the Secretary for reducing, through the use of alternate routes involving lower security risks, the security risks posed by the transportation by rail of extremely hazardous materials through or near area of concern communities;

(6) other recommendations for improving the safety and security of the transportation by rail of extremely hazardous materials; and

(7) an analysis of the anticipated economic impact and effect on interstate commerce of the regulations prescribed under this Act.

(c) FORM.—The report required under subsection (a) shall be in unclassified form, but may contain a classified annex.

**SEC. 5. WHISTLEBLOWER PROTECTION.**

(a) IN GENERAL.—No person involved in the transportation by rail of extremely hazardous materials may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials, or any other threat to the security of shipments of extremely hazardous materials, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials or any other threat to the security of shipments of extremely hazardous materials; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c)—

(A) by filing a complaint with the Secretary of Labor; and

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, by commencing a civil action in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) COMPLAINT TO DEPARTMENT OF LABOR.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in subsection (b) of section 42121 of title 49, United States Code, except that notification made under such subsection shall be made to the person named in the complaint and to the person's employer.

(B) COURT ACTION.—An action commenced under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b)(2)(B) of title 49, United States Code.

(C) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurred.

(c) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the person whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) in the case of a termination of, or other discriminatory act regarding the person's employment—

(i) reinstatement with the same seniority status that the person would have had, but for the discrimination; and

(ii) payment of the amount of any back pay, with interest, computed retroactively to the date of the discriminatory act; and

(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any per-

son under any Federal or State law, or under any collective bargaining agreement.

SEC. 6. CIVIL PENALTIES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prescribe regulations providing for the imposition of civil penalties for violations of—

(1) regulations prescribed under this Act; and

(2) the prohibition against discriminatory treatment under section 5(a).

SEC. 7. NO FEDERAL PREEMPTION.

Nothing in this Act shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

SEC. 8. DEFINITIONS.

In this Act:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term "extremely hazardous material" means—

(A) a material that is toxic by inhalation;

(B) a material that is extremely flammable;

(C) a material that is highly explosive;

(D) high-level radioactive waste; and

(E) any other material designated by the Secretary of Homeland Security as being extremely hazardous.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

By Mr. BUNNING:

S. 774. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

Mr. BUNNING. Mr. President, today, I am introducing the Social Security Benefits Tax Relief Act of 2005, which repeals the 1993 income tax increase on Social Security benefits that went into effect in 1993.

When Social Security was created, beneficiaries did not pay federal income tax on their benefits. However, in 1983, Congress passed legislation requiring that 50 percent of Social Security benefits be taxed for seniors whose incomes were above \$25,000 for an individual and \$32,000 for a couple. This additional revenue was credited back to the Social Security trust funds.

In 1993, Congress and President Clinton expanded this tax. A provision was passed as part of a larger bill requiring that 85 percent of a senior's Social Security benefit be taxed if their income was above \$34,000 for an individual and \$44,000 for a couple. This additional money is credited to the Medicare program.

I was in Congress in 1993, and fought against this provision. This is an unfair tax on our senior citizens who worked year after year paying into Social Security, only to be taxed on their benefits once they retired.

My bill, the Social Security Benefits Tax Relief Act, would repeal the 1993 tax increase on benefits and would replace the money that has been going to

the Medicare program with general funds. This legislation is identical to the legislation I introduced in the 108th Congress.

Recently during debate on the Budget Resolution, I introduced an amendment that provides the Finance Committee with the tax cuts to finally repeal the 1993 tax increase on Social Security benefits. My amendment passed by a vote of 55 yeas to 45 nays. The legislation I am introducing today provides the legislative blueprint for repealing this unfair tax.

The 1993 tax was unfair when it was signed into law, and it is unfair today. I hope my Senate colleagues can support this legislation to remove this burdensome tax on our seniors.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 775. A bill to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, OK, as the "Boone Pickens Post Office"; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today to proudly introduce legislation to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, OK, as the "Boone Pickens Post Office".

Thomas Boone Pickens, Jr. emulates the Oklahoma spirit of hard work, entrepreneurship and philanthropy. He is an excellent example of the potential to achieve success in our American free enterprise system. I honor, I proudly seek to name the post office in his hometown of Holdenville, OK, where he was born in 1928.

As the son of a landman, Pickens quickly appreciated the business potential of oil exploration. Oklahoma State University awarded Pickens a bachelor of science in geology in 1951. He grew frustrated with the bureaucracy of working for a large company and decided to start his own in 1956. This company was the basis for what became one of the leading oil and gas exploration and production firms in the nation, Mesa Petroleum Company.

Not only did Pickens lead in the energy industry itself, he possessed the unique ability to recognize and acquire undervalued companies. Repeatedly, markets eventually realized the worth of these companies, and shareholder profits soared.

His innovative thinking and business skills amassed the fortune and wisdom he unselfishly shares with others. Oklahoma State University has benefited from his generous investment in academics and athletics. He is also a dedicated supporter of a wide range of medical research initiatives. He is an energetic advocate for the causes he believes in, devoting his time to serve on numerous boards and receiving recognition through countless awards.

He often said, "Be willing to make decisions. That's the most important quality in a good leader. Don't fall victim to what I call the ready-aim-aim-aim syndrome."

You must be willing to fire." That is exactly the Oklahoma mentality of leadership, the ability to make tough decisions and stick to them.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding citizen so that future generations will be challenged by his example, just as we have been.

By Mr. JOHNSON (for himself, Mr. THUNE, Mr. DAYTON, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. ROCKEFELLER):

S. 776. A bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. JOHNSON. Mr. President, I rise today to introduce legislation to ensure that rural America's aviation network benefits from the same level of service and safety as America's busiest airports. Whether moving products and services as part of the global economy, or shepherding sick patients for medical care, rural communities require the same basic air infrastructure network. By ensuring that Flight Service Stations remain in rural areas, general aviation pilots will continue to be able to serve regions that may otherwise be neglected.

Flight Service Stations currently provide general aviation pilots with weather briefings, temporary flight restrictions, emergency information, and aid in search and rescue situations. Flight Service Station Specialists use their expertise of regional weather, landscape, and flight conditions to ensure pilots reach their destinations safely. Their work has kept general aviation running smoothly and has literally saved lives.

On February 1, 2005, the Federal Aviation Administration announced that operations conducted by Flight Service Stations would be performed by a private contractor. Under the Administration's proposal, the contractor will eliminate 38 of the 58 stations across the country. Work currently conducted by these stations will then be done by employees located in the remaining 20 stations.

The Federal Aviation Administration's proposal will lead to decreased safety for pilots of small planes because they will no longer be talking to personnel familiar with regional weather and topography. The consolidated system will strain service capability because fewer employees will be responsible for a growing system of general air traffic. The proposed plan will be especially harmful to rural areas that more heavily rely upon smaller aircraft.

The Federal Aviation Safety Security Act would ensure that these facilities can continue to preserve and protect general aviation in the United States. This legislation is supported by

a large number of general aviation pilots and others who depend on their regional Flight Service Station. The bill already enjoys significant bipartisan support, and I will continue to work with members of both parties to preserve aviation safety.

I ask unanimous consent that the text of the Federal Aviation Safety Security Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 776

*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 "The Federal Aviation Safety Security Act of 2005".

**SEC. 2. INHERENTLY GOVERNMENTAL DETERMINATION.**

For purposes of section 2(a) of the Federal Inventory Activities Act of 1998 (112 Stat. 2382), the functions performed by air traffic control specialists at flight service stations operated by the Federal Aviation Administration are inherently governmental functions and must be performed by Federal employees.

**SEC. 3. ACTIONS VOIDED.**

Any action taken pursuant to section 2(a) of the Federal Inventory Activities Act of 1998 (112 Stat. 2382), or any other law or legal authority with respect to functions performed by air traffic control specialists at flight service stations operated by the Federal Aviation Administration is null and void.

By Mr. SARBANES:

S. 777. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, today I am reintroducing legislation to re-designate Catoctin Mountain Park as the Catoctin Mountain National Recreation Area. This measure was unanimously approved by the full Senate during the 108th Congress, but unfortunately, was not considered in the House.

I spoke during the 108th Congress about the need to enact this legislation and I want to underscore some of the key reasons today. Catoctin Mountain Park is a hidden gem in our National Park System. Home to Camp David, the Presidential retreat, it has been aptly described as "America's most famous unknown park." Comprising nearly 6000 acres of the eastern reach of the Appalachian Mountains in Maryland, the park is rich in history as well as outdoor recreation opportunities. Visitors can enjoy camping, picnicking, cross-country skiing, fishing, as well as the solitude and beauty of the woodland mountain and streams in the park.

Catoctin Mountain Park had its origins during the Great Depression as one of 46 Recreational Demonstration Areas (RDA) established under the authority of the National Industrial Recovery Act. The Federal Government

purchased more than 10,000 acres of mountain land that had been heavily logged and was no longer productive to demonstrate how sub-marginal land could be turned into a productive recreational area and help put people back to work. From 1936 through 1941, hundreds of workers under the Works Progress Administration and later the Civilian Conservation Corps were employed in reforestation activities and in the construction of a number of camps, roads and other facilities, including the camp now known as Camp David, and one of the earliest—if not the oldest—camp for disabled individuals. In November 1936, administrative authority for the Catoctin RDA was transferred to the National Park Service by Executive Order.

In 1942, concern about President Roosevelt's health and safety led to the selection of Catoctin Mountain, and specifically Camp Hi-Catoctin as the location for the President's new retreat. Subsequently approximately 5,000 acres of the area was transferred to the State of Maryland, becoming Cunningham Falls State Park in 1954. The remaining 5,770 acres of the Catoctin Recreation Demonstration Area was renamed Catoctin Mountain Park by the Director of the National Park Service in 1954. Unfortunately, the Director failed to include the term "National" in the title and the park today remains one of eleven units in the National Park System—all in the National Capital Region—that do not have this designation.

The proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park, and the differences between national and state park management, has caused longstanding confusion for visitors to the area. Catoctin Mountain Park is continually misidentified by the public as containing lake and beach areas associated with Cunningham Falls State Park, being operated by the State of Maryland, or being closed to the public because of the presence of Camp David. National Park employees spend countless hours explaining, assisting and redirecting visitors to their desired destinations.

My legislation would help to address this situation and clearly identify this park as a unit of the National Park System by renaming it the Catoctin Mountain National Recreation Area. The Maryland State Highway Administration, perhaps in anticipation of the enactment of this bill, has already changed some of the signs leading to the Park. This bill would make the name change official within the National Park Service and on official National Park Service maps. Moreover, the mission and characteristics of this park—which include the preservation of significant historic resources and important natural areas in locations that provide outdoor recreation for large numbers of people—make this designation appropriate. This measure would not change access requirements

or current recreational uses occurring within the park. But it would assist the visiting public in distinguishing between the many units of the State and Federal systems. It will also, in my judgment, help promote tourism by enhancing public awareness of the National Park unit.

I urge approval of this legislation and ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 777

*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 "Catocctin Mountain National Recreation Area Designation Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—  
(1) the Catocctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and  
(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as "Camp David" was established in the Catocctin Recreation Demonstration Area;

(3) in 1952, approximately 5,000 acres of land in the Catocctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catocctin Recreation Demonstration Area was renamed "Catocctin Mountain Park";

(5) the proximity of Catocctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catocctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word "National" in the title; and

(7) the history, uses, and resources of Catocctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catocctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

**SEC. 3. DEFINITIONS.**

(a) MAP.—The term "map" means the map entitled "Catocctin Mountain National Recreation Area", numbered 841/80444, and dated August 14, 2002.

(b) RECREATION AREA.—The term "recreation area" means the Catocctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.**

(a) DESIGNATION.—Catocctin Mountain Park in the State of Maryland shall be known and designated as the "Catocctin Mountain National Recreation Area".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catocctin Mountain Park shall be deemed to be a reference to the Catocctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 778. A bill to amend title XVIII and XIX of the Social Security Act to require a pharmacy that receives payments or has contracts under the medicare and medicaid programs to ensure that all valid prescriptions are filled without unnecessary delay or interference; to the Committee on Finance.

Mrs. BOXER. Mr. President, today I am introducing "The Pharmacy Consumer Protection Act of 2005" to ensure that our Nation's pharmacies fill all valid prescriptions without unnecessary delay or interference.

We are hearing more and more stories about pharmacists refusing to fill prescriptions for contraceptives because of their personal beliefs, not their medical concerns. Some of my constituents have told me about their experiences. One woman in Merced County was turned away by a pharmacist who said "we don't do that here," but, less than two hours later, another pharmacist in the store filled the same prescription for another customer immediately. It's not just in California, of course.

In Menomonie, WI, a pharmacist told a woman he wouldn't fill her prescription for birth control pills or even transfer her prescription to another pharmacy. In Fabens, TX, a married woman had just had a baby. It had been a C-section. Her doctor told her not to get pregnant again in the near future, and prescribed birth control pills. She went to get her prescription refilled while visiting her mother in Fabens. Unfortunately, the cashier told her that the pharmacist wouldn't be able to refill her prescription because birth control was "against his religion" and was a form of "abortion."

The American people do not think this is right. According to a November 2004 CBS/New York Times poll, 8 out of 10 Americans believe that pharmacists should not be permitted to refuse to dispense birth control pills, including 70 percent of Republicans. They know that contraceptives are a legal and effective way to reduce unintended pregnancies and abortions.

But this challenge is not just about contraceptives. It's about access to health care. It's about making decisions based on science and medicine. Tomorrow, pharmacists could refuse to dispense any drug for any medical condition. Access to pharmaceuticals should depend on medical judgments, not personal ideology.

The Pharmacy Consumer Protection Act requires pharmacies that receive Medicare and Medicaid funding to fill all valid prescriptions for FDA-approved drugs and devices without unnecessary delay or interference. That means, if the item is not in stock, the pharmacy should order it according to its standard procedures, or, if the customer prefers, transfer it to another pharmacy or give the prescription back.

There are medical reasons why a pharmacy wouldn't want to fill prescriptions including problems with dosages, harmful interactions with other drugs, or potential drug abuse. This bill would not interfere with those decisions.

I know some are concerned about those pharmacists who do not want to dispense particular medications because of their personal beliefs, including their religious values. I believe that is between the pharmacist and his or her employer. In this bill, it is the responsibility of the pharmacy, not the pharmacist, to ensure that prescriptions are filled. Pharmacies can accommodate their employees in any manner that they wish as long as customers get their medications without delay, interference, or harassment.

Most of our pharmacies receive reimbursements through Medicaid. When the prescription drug program goes into full effect in January, a growing number will be part of Medicare. If a pharmacy contracts with our Medicaid or Medicare programs, directly or indirectly, they should fulfill their fundamental duty to the patients they serve.

Most pharmacists work hard and do right by their patients every day. They believe in science. They believe that if a doctor writes a valid prescription, it should be filled. But, unfortunately, some have put their personal views over the health of their patients. That is wrong. When people walk into a pharmacy, they should have confidence that they will get the medications they need, when they need them. The Pharmacy Consumer Protection Act of 2005 will help ensure just that.

By Mr. DORGAN (for himself and Mr. LEVIN):

S. 779. A bill to amend the Internal Revenue Code of 1986 to treat controlled foreign corporations established

in tax havens as domestic corporations; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I'm joined by Senator LEVIN of Michigan in introducing legislation that we believe will help the Internal Revenue Service (IRS) combat offshore tax-haven abuses and ensure that U.S. multinational companies pay the U.S. taxes that they rightfully owe.

Tens of millions of taxpayers will be rushing to file their tax returns in the next few days in order to fulfill their taxpaying responsibility by the April 15 filing deadline. Some tax experts estimate that taxpayers will spend over \$100 billion and more than 6 billion hours this year trying to comply with their federal tax obligation. It's no wonder that many Americans are frustrated with the current tax system and would gladly welcome substantive efforts to simplify it.

However, this frustration changes to anger when the taxpayers who pay their taxes on time each year discover that many corporate taxpayers are shirking their tax obligations by actively shifting their profits to foreign tax havens or using other inappropriate tax avoidance techniques. The bill that Senator LEVIN and I are introducing today is a simple and straightforward way to try to tackle the offshore tax-haven problem.

Specifically, our legislation denies tax benefits, namely tax deferral, to U.S. multinational companies that set up controlled foreign corporations in tax-haven countries by treating those subsidiaries as domestic companies for U.S. income tax purposes. This tracks the same general approach embraced and passed by the Congress in other tax legislation designed to curb the problem of corporate inversions.

We have known for many years that some very profitable U.S. multinational businesses are using offshore tax havens to avoid paying their fair share of U.S. taxes. But Congress has really done very little to stop this hemorrhaging of tax revenues. In fact, recent evidence suggests that the tax-haven problem is getting much worse and may be draining the U.S. Treasury of tens of billions of dollars every year.

The New York Times got it right when it suggested that "instead of moving headquarters offshore, many companies are simply placing patents on drugs, ownership of corporate logos, techniques for manufacturing processes and other intangible assets in tax havens . . . The companies then charge their subsidiaries in higher-tax locales, including the U.S., for the use of these intellectual properties. This allows the companies to take profits in these havens and pay far less in taxes."

How pervasive is the tax-haven subsidiary problem? Last year, the Government Accountability Office (GAO), the investigative arm of Congress, issued a report that Senator LEVIN and I requested that gives some insight to the potential magnitude of this tax avoidance activity. The GAO found

that 59 out of the 100 largest publicly-traded federal contractors in 2001—with tens of billions of dollars of federal contracts in 2001—had established hundreds of subsidiaries located in offshore tax havens.

According to the GAO, Exxon-Mobil Corporation, the 21st largest publicly traded federal contractor in 2001, has some 11 tax-haven subsidiaries in the Bahamas. Halliburton Company reportedly has 17 tax-haven subsidiaries, including 13 in the Cayman Islands, a country that has never imposed a corporate income tax, as well as 2 in Liechtenstein and 2 in Panama. And the now infamous Enron Corporation had 1,300 different foreign entities, including some 441 located in the Cayman Islands.

More recently, former Joint Committee on Taxation economist Martin Sullivan released a study that looked at the amount of profits that U.S. companies are shifting to offshore tax havens. He found that U.S. multinationals had moved hundreds of billions of profits to tax havens for years 1999-2002, the latest years for which IRS data is available.

Although Congress passed legislation, which I supported, that addresses the problem of corporate expatriates that reincorporate overseas, that legislation did nothing to deal with the problem of U.S. companies that are setting up tax-haven subsidiaries to avoid their taxpaying responsibilities in this country.

The legislation that we are introducing builds upon the good work of Senators GRASSLEY and BAUCUS and other members of the Senate Finance Committee by extending similar tax policy changes to cover the case of U.S. companies and their tax-haven subsidiaries.

Specifically, our legislation would do the following: 1. Treat U.S. controlled foreign subsidiaries that are set up in tax-haven countries as domestic companies for U.S. tax purposes. In other words, we would simply treat these companies as if they never left the United States, which is essentially the case in these tax avoidance motivated transactions.

2. List specific tax-haven countries subject to the new rule (based upon the previous work by the Organization for Economic Cooperation and Development) and give the Secretary of the Treasury the ability to add or remove a foreign country from this list in appropriate cases.

3. Provide an exception where substantially all of a U.S. controlled foreign corporation's income is derived from the active conduct of a trade or business within the listed tax-haven country.

4. Make these proposed changes effective beginning after December 31, 2007. This will give businesses ample time to restructure their tax-haven operations if they so choose.

This legislation will help end the tax benefits for U.S. companies that shift

income to offshore tax-haven subsidiaries. For example, any efforts by a U.S. company to move profits to the subsidiary through transfer pricing schemes will not work because the income earned by the subsidiary would still be immediately taxable by the United States. Likewise, any efforts to move otherwise active income earned by a U.S. company in a high-tax foreign country to a tax haven would cause the income to be immediately taxable by the United States. Companies that try to move intangible assets—and the income they produce—to tax havens would be unsuccessful because the income would still be immediately taxable by the United States.

Let me be very clear about one thing. This legislation will not adversely impact U.S. companies with controlled foreign subsidiaries that are located in tax havens and doing legitimate and substantial business. The legislation expressly exempts a U.S.-controlled foreign subsidiary from its tax rule changes when substantially all of its income is derived from the active conduct of a trade or business within a listed tax-haven country.

In 2002, then-IRS Commissioner Charles Rossotti told Congress that "nothing undermines confidence in the tax system more than the impression that the average honest taxpayer has to pay his or her taxes while more wealthy or unscrupulous taxpayers are allowed to get away with not paying." Last week, IRS Commissioner Everson echoed similar sentiments at a Senate Transportation-Treasury Appropriations Subcommittee hearing I attended on the IRS's FY 2006 budget request.

They are absolutely right. It's grossly unfair to ask our Main Street businesses to operate at a competitive disadvantage to large multinational businesses simply because our tax authorities are unable to grapple with the growing offshore tax avoidance problem. It is outrageous that tens of millions of working families who pay their taxes on time every year are shouldering the tax burden of large profitable U.S. multinational companies that use tax-haven subsidiaries.

I hope that Congress will act promptly to enact legislation to curb these tax-haven subsidiary abuses. I urge my colleagues to cosponsor this bill.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 106—CONGRATULATING THE UNIVERSITY OF DENVER PIONEERS MEN'S HOCKEY TEAM, 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I HOCKEY CHAMPIONS

Mr. SALAZAR (for himself and Mr. ALLARD) submitted the following resolution; which was considered and agreed to:

S. RES. 106

Whereas the Denver Pioneers first won the National Collegiate Athletic Association (NCAA) Hockey Championship in 1958;

Whereas the University of Denver has won 7 NCAA Division I Men's Hockey Championships, including back-to-back championships in 2004 and 2005;

Whereas on April 9, 2005, the University of Denver won the Frozen Four with a hard fought victory over the University of North Dakota Fighting Sioux; and

Whereas the Championship ended a terrific season in which the University of Denver outscored its opponents 170 to 109 and had a record of 31–9–2: Now, therefore, be it

*Resolved*, That the Senate congratulates the University of Denver Pioneers men's hockey team, Coach George Gwozdecky, and Chancellor Daniel Ritchie on an outstanding championship season, a season which solidifies the Pioneers' status among the elite in collegiate hockey.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 357. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 358. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 359. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 360. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 361. Mr. REID (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 362. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 363. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 364. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 365. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 366. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 367. Mr. BYRD proposed an amendment to the bill H.R. 1268, supra.

SA 368. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 369. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 370. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 371. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 372. Mr. CORNYN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, supra.

SA 373. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 374. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 376. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 377. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 378. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 379. Mrs. HUTCHISON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 380. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 381. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 382. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 383. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 384. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 385. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 386. Mr. STEVENS (for himself and Mr. INOUE) proposed an amendment to the bill H.R. 1268, supra.

SA 387. Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WAR-

NER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) proposed an amendment to the bill H.R. 1268, supra.

SA 388. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 389. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 390. Mr. OBAMA (for himself, Mr. GRAHAM, Mr. BINGAMAN, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 391. Mr. OBAMA (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 392. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 393. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 394. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 395. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER) proposed an amendment to the bill H.R. 1268, supra.

SA 396. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 397. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 398. Mr. DORGAN (for himself, Mr. DURBIN, Mr. LAUTENBERG, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 399. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 400. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 401. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 1268, supra.

SA 402. Mr. COCHRAN (for Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 403. Mr. COCHRAN (for Mr. LUGAR (for himself and Mr. BIDEN)) proposed an amendment to the bill H.R. 1268, supra.

SA 404. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 405. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 406. Mr. BAYH (for himself, Mr. PRYOR, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, supra.

SA 407. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 408. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R.

1268, supra; which was ordered to lie on the table.

SA 409. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 410. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 411. Mr. SESSIONS (for Mr. BAUCUS (for himself, Mr. GRASSLEY, Ms. LANDRIEU, Mr. LOTT, Mrs. FEINSTEIN, Mr. VITTER, Mr. NELSON of Florida, Mr. BOND, and Mr. MARTINEZ)) proposed an amendment to the bill H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

TEXT OF AMENDMENTS

SA 357. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the bill, on page 171, line 2 strike "\$150,000,000 through "expended" and insert in lieu thereof the following:

"\$470,000,000 to remain available until expended: Provided, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: Provided further, That of the funds provided under this heading, \$12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985".

SA 358. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

SA 359. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_. IMMIGRATION FRAUD.

(a) FRAUDULENT USE OF PASSPORTS.—

(1) CRIMINAL CODE.—

(A) SECRETARY OF HOMELAND SECURITY.—Section 1546 of title 18, United States Code, is amended by striking "the Commissioner of the Immigration and Naturalization Service" each place it appears and inserting "the Secretary of Homeland Security".

(B) DEFINITION OF PASSPORT.—Chapter 75 of title 18, United States Code, is amended by adding at the end the following:

"§ 1548. Definition

"In sections 1543 and 1544, the term 'passport' means any passport issued by the United States or any foreign country."

(C) CLERICAL AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1548. Definition."

(2) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(P)) is amended to read as follows:

"(P)(i) an offense described in section 1542, 1543, or 1544 of title 18, United States Code (relating to false statements in the application, forgery, or misuse of a passport);

"(ii) an offense described in section 1546(a) of title 18, United States Code, relating to document fraud used as evidence of authorized stay or employment in the United States for which the term of imprisonment is at least 12 months; or

"(iii) any other offense described in section 1546(a) of title 18, United States Code, relating to entry into the United States, regardless of the term of imprisonment imposed."

(b) RELEASE AND DETENTION PRIOR TO DISPOSITION.—Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking "or" after the semicolon; and

(2) by adding at the end the following:

"(E) an offense under section 1542, 1543, 1544, or 1546(a) of this title; or".

SA 360. Mrs. FEINSTEIN submitted an amendment intended to be proposed

by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

USE OF GUANTANAMO BAY DETENTION FACILITIES

SEC. 6047. (a) The Secretary of Defense, the Attorney General of the United States, and the Director of National Intelligence (upon confirmation) shall submit a report to Congress, in both classified and unclassified form, assessing the use of detention facilities at Guantanamo Bay, Cuba, including—

(1) a statement of the rationale for using Guantanamo Bay as the location for detention facilities;

(2) a comparison of the costs of maintaining such a facility at Guantanamo Bay with maintaining a similar facility within the United States;

(3) a comparison of the measures necessary to maintain the facility securely at Guantanamo Bay with maintaining a similar facility within the United States;

(4) a comprehensive listing of interrogation techniques which could be lawfully used at Guantanamo Bay, but not at a location within the United States; and

(5) an analysis of procedural rights, including rights of appeal and review, which would be available to a detainee held within the United States, but not available to a similarly situated detainee held at Guantanamo Bay.

(b) The report under subsection (a) shall be submitted not later than 90 days after the date of enactment of this Act.

(c) Funds appropriated or otherwise made available under this Act related to improvements to facilities at Guantanamo Bay shall not be obligated until and unless the report is submitted to Congress.

SA 361. Mr. REID (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SENSE OF SENATE ON TREATMENT OF CERTAIN VETERANS UNDER REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS DISABILITY COMPENSATION

SEC. 1122. It is the sense of the Senate that any veteran with a service-connected disability rated as total by virtue of having

been deemed unemployable who otherwise qualifies for treatment as a qualified retiree for purposes of section 1414 of title 10, United States Code, should be entitled to treatment as qualified retiree receiving veterans disability compensation for a disability rated as 100 percent for purposes of the final clause of subsection (a)(1) of such section, as amended by section 642 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 1957), and thus entitled to payment of both retired pay and veterans' disability compensation under such section 1414 commencing as of January 1, 2005.

**SA 362.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2005**

**SEC. 701. SHORT TITLE.**

This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2005".

**SEC. 702. DEFINITIONS.**

(a) IN GENERAL.—In this title:

(1) **COMPETENT.**—The term "competent", in reference to counsel, means an attorney who—

(A) complies with the duties set forth in this title;

(B) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia;

(C) is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting the attorney in the practice of law; and

(D) is properly qualified to handle matters involving unaccompanied immigrant children or is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters.

(2) **DIRECTOR.**—The term "Director" means the Director of the Office.

(3) **DIRECTORATE.**—The term "Directorate" means the Directorate of Border and Transportation Security established by section 401 of the Homeland Security Act of 2002 (6 U.S.C. 201).

(4) **OFFICE.**—The term "Office" means the Office of Refugee Resettlement established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) **SECRETARY.**—The term "Secretary" means the Secretary of Homeland Security.

(6) **UNACCOMPANIED ALIEN CHILD.**—The term "unaccompanied alien child" has the meaning given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

(7) **VOLUNTARY AGENCY.**—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director.

(b) **AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.**—Section 101(a) of the Im-

migration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody."

(c) **RULE OF CONSTRUCTION.**—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

**Subtitle A—Custody, Release, Family Reunification, and Detention**

**SEC. 711. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.**

(a) **UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) **SPECIAL RULE FOR CONTIGUOUS COUNTRIES.**—

(A) **IN GENERAL.**—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in this subparagraph;

(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) **RIGHT OF CONSULTATION.**—Any child described in subparagraph (A) shall have the right, and shall be informed of that right in the child's native language—

(i) to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation; and

(ii) to consult, telephonically, with the Office.

(3) **RULE FOR APPREHENSIONS AT THE BORDER.**—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(b) **CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.**—

(1) **ESTABLISHMENT OF JURISDICTION.**—

(A) **IN GENERAL.**—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) **EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.**—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) **EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.**—Notwithstanding subparagraph (A), the Directorate shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(D) **TRAFFICKING VICTIMS.**—For purposes of this title and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

(2) **NOTIFICATION.**—

(A) **IN GENERAL.**—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Directorate is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Directorate that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Directorate who has claimed to be over the age of 18 is actually under the age of 18.

(B) **SPECIAL RULE.**—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 715 and take whatever other steps are necessary to determine whether such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) **TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.**—

(A) **TRANSFER TO THE OFFICE.**—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;

(ii) in the case of a child whose custody and care has been retained or assumed by the Directorate pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs; or



(iii) in the case of a child who was previously released to an individual or entity described in section 712(a)(1), upon a determination by the Director that such individual or entity is no longer able to care for the child.

(B) TRANSFER TO THE DIRECTORATE.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Directorate.

(C) PROMPTNESS OF TRANSFER.—In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets such age requirements shall be made by the Director in accordance with section 715.

**SEC. 712. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.**

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the discretion of the Director under paragraph (4), section 713(a)(2) of this Act, and section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

- (A) A parent who seeks to establish custody, as described in paragraph (3)(A).
- (B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).
- (C) An adult relative.
- (D) An individual or entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.
- (E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.
- (F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.

(2) SUITABILITY ASSESSMENT.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid suitability assessment conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments, has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, and subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall—

(i) assess the suitability of placing the child with the parent or legal guardian; and

(ii) make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES AND PROGRAMS.—

(i) IN GENERAL.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) WITNESS PROTECTION PROGRAMS INCLUDED.—Programs established pursuant to clause (i) may include witness protection programs.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of involvement in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action, which may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—The Director may award grants to, and enter into contracts with, voluntary agencies to carry out this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) REIMBURSEMENT OF STATE EXPENSES.—The Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

(c) REQUIRED DISCLOSURE.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(d) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.

**SEC. 713. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.**

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to such behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—A child shall not be placed with an entity described in section 712(a)(1)(E), unless the entity is licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director and the Secretary of Homeland Security shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

- (i) educational services appropriate to the child;
- (ii) medical care;
- (iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;
- (iv) access to telephones;
- (v) access to legal services;
- (vi) access to interpreters;
- (vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;
- (viii) recreational programs and activities;
- (ix) spiritual and religious needs; and
- (x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Regulations promulgated under subparagraph (A) shall provide that all children are notified of such standards orally and in writing in the child's native language.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

- (1) shackling, handcuffing, or other restraints on children;
- (2) solitary confinement; or
- (3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under *Flores v. Reno*.

**SEC. 714. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.**

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The annual Country Reports on Human Rights Practices published by the Department of State shall contain an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Directorate shall consult the Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to repatriate unaccompanied alien children.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(B) a description of the type of immigration relief sought and denied to such children;

(C) a statement of the nationalities, ages, and gender of such children;

(D) a description of the procedures used to effect the removal of such children from the United States;

(E) a description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin; and

(F) any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

**SEC. 715. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.**

(a) PROCEDURES.—

(1) IN GENERAL.—The Director shall develop procedures to make a prompt determination of the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue.

(2) EVIDENCE.—The procedures developed under paragraph (1) shall—

(A) permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention; and

(B) allow the appeal of a determination to an immigration judge.

(3) ACCESS TO ALIEN.—The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary so as to ensure a prompt determination of the age of such alien.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Radiographs or the attestation of an alien shall not be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under this title or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

**SEC. 716. EFFECTIVE DATE.**

This subtitle shall take effect on the date which is 90 days after the date of enactment of this Act.

**Subtitle B—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel**

**SEC. 721. GUARDIANS AD LITEM.**

(a) ESTABLISHMENT OF GUARDIAN AD LITEM PROGRAM.—

(1) APPOINTMENT.—The Director may appoint a guardian ad litem, who meets the qualifications described in paragraph (2), for an unaccompanied alien child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Directorate, the Office, or the Executive Office for Immigration Review.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to the child's presence in the United States, including facts and circumstances—

(i) arising in the country of the child's nationality or last habitual residence; and

(ii) arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that—

(i) the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(ii) the child understands the nature of the legal proceedings or matters and determinations made by the court, and that all information is conveyed to the child in an age-appropriate manner; and

(F) report factual findings relating to—

(i) information collected under subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information collected under subparagraph (D).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until the earliest of the date on which—

(A) those duties are completed;

(B) the child departs the United States;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child before such notification.

(b) TRAINING.—

(1) IN GENERAL.—The Director shall provide professional training for all persons serving as guardians ad litem under this section.

(2) TRAINING TOPICS.—The training provided under paragraph (1) shall include training in—

(A) the circumstances and conditions that unaccompanied alien children face; and

(B) various immigration benefits for which such alien child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

(2) PURPOSE.—The purpose of the pilot program established under paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established under paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program site is established under paragraph (1), the Director shall submit a report on the achievement of the purposes described in paragraph (2) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

**SEC. 722. COUNSEL.**

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director should ensure that all unaccompanied alien children in the custody of the Office or the Directorate, who are not described in section 711(a)(2), have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director should—

(A) make every effort to utilize the services of competent pro bono counsel who agree to provide representation to such children without charge; and

(B) ensure that placements made under subparagraphs (D), (E), and (F) of section 712(a)(1) are in cities where there is a demonstrated capacity for competent pro bono representation.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to unaccompanied alien children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with, or award grants to, non-profit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out the responsibilities of this title, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(B) SUBCONTRACTING.—Nonprofit agencies may enter into subcontracts with, or award grants to, private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(C) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In awarding grants and entering into contracts with agencies under this paragraph, the Director shall take into consideration the capacity of the agencies in question to properly administer the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings. Such guidelines shall be based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed under subparagraph (A) shall be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) and submit the guidelines for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Directorate;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be given an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

#### SEC. 723. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect 180 days after the date of enactment of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

#### Subtitle C—Strengthening Policies for Permanent Protection of Alien Children

##### SEC. 731. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

“(J) an immigrant, who is 18 years of age or younger on the date of application and who is present in the United States—

“(i) who by a court order, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, due to abuse, neglect, abandonment, or a similar basis found under State law;

“(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

“(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of the Bureau of Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien, except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;”.

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

“(A) paragraphs (4), (5)(A), (6)(A), and (7) of section 212(a) shall not apply; and”.

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), shall be eligible for all funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

(d) TRANSITION RULE.—Notwithstanding any other provision of law, any child described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) who filed an application for a visa before the date of enactment of this Act and who was 19, 20, or 21 years of age on the date such application was filed shall not be denied a visa after the date of enactment of this Act because of such alien's age.

#### SEC. 732. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to State and county officials, child welfare

specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children.

(2) CURRICULUM.—The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF DIRECTORATE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Directorate who come into contact with unaccompanied alien children. Training for Border Patrol agents and immigration inspectors shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 711(a)(2).

#### SEC. 733. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this title;

(3) data regarding the provision of guardian ad litem and counsel services under this title; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

#### SEC. 734. EFFECTIVE DATE.

The amendment made by section 731 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

#### Subtitle D—Children Refugee and Asylum Seekers

##### SEC. 741. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Immigration and Naturalization Service for its issuance of its “Guidelines for Children's Asylum Claims”, dated December 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service (and its successor entities) in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice to adopt the “Guidelines for Children's Asylum Claims” in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the “Guidelines for Children's Asylum Claims” to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

##### SEC. 742. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

“(A) the number of unaccompanied refugee children, by region;

“(B) the capacity of the Department of State to identify such refugees;

“(C) the capacity of the international community to care for and protect such refugees;

“(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

“(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

“(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.”.

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking “and” after “countries;” and

(2) inserting before the period at the end the following: “, and instruction on the needs of unaccompanied refugee children”.

**SEC. 743. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.**

(a) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child apprehended by the Directorate, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section 711(a), shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) EXCEPTION FROM TIME LIMIT FOR FILING ASYLUM APPLICATION.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(51).”.

**Subtitle E—Authorization of Appropriations**  
**SEC. 751. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—

(1) the provisions of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

(2) the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

**Subtitle F—Amendments to the Homeland Security Act of 2002**

**SEC. 761. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.**

(a) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking “and” at the end;

(2) in subparagraph (L), by striking the period at the end and inserting “, including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and”;

(3) by adding at the end the following:

“(M) ensuring minimum standards of care for all unaccompanied alien children—

“(i) for whom detention is necessary; and

“(ii) who reside in settings that are alternative to detention.”.

(b) ADDITIONAL POWERS OF THE DIRECTOR.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

“(4) AUTHORITY.—In carrying out the duties under paragraph (3), the Director is authorized to—

“(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2005; and

“(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2005, including the power to—

“(i) declare providers to be in breach and seek damages for noncompliance;

“(ii) terminate the contracts of providers that are not in compliance with such conditions; and

“(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.”.

**SEC. 762. TECHNICAL CORRECTIONS.**

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 761, is amended—

(1) in paragraph (3), by striking “paragraph (1)(G)” and inserting “paragraph (1)”; and

(2) by adding at the end the following:

“(5) STATUTORY CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.”.

**SEC. 763. EFFECTIVE DATE.**

The amendments made by this subtitle shall take effect as if included in the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

**SA 363. Mr. SARBANES** (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL  
DEPARTMENT OF THE ARMY  
CONSTRUCTION, GENERAL

Section 123 of Public Law 108-137 (117 Stat. 1837) is amended by striking “in accordance with” and all that follows through the end of the section and inserting “in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed study draft feasibility report and integrated environmental assessment prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated April 2004.”.

**SA 364. Mr. BROWNBACK** submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropria-

tions for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

NUMERICAL LIMITATIONS RELATED TO ASYLUM

SEC. 6047. (a) Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended by striking paragraph (5).

(b) Section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) is amended to read as follows:

“(b) The Secretary of Homeland Security may, in the discretion of the Secretary of Homeland Security, adjust to the status of an alien lawfully admitted for permanent residence, the status of any alien granted asylum who—

“(1) applies for such adjustment,

“(2) has been physically present in the United States for at least one year after being granted asylum,

“(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

“(4) is not firmly resettled in any foreign country, and

“(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

“Upon approval of an application under this subsection, the Secretary of Homeland Security shall establish a record of the alien's admission for lawful permanent residence as of the date on which such alien's application for asylum was approved.”.

**SA 365. Mr. BROWNBACK** submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

**TITLE VII—NEW IMMIGRANT CATEGORIES**  
**SEC. 7001. SHORT TITLE.**

This title may be cited as the “Widows and Orphans Act of 2005”.

**SEC. 7002. NEW SPECIAL IMMIGRANT CATEGORY.**

(a) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) in subparagraph (L), by inserting a semicolon at the end;

(2) in subparagraph (M), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—  
 “(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”.

(b) **STATUTORY CONSTRUCTION.**—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien’s application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien’s representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”.

(c) **ALLOCATION OF SPECIAL IMMIGRANT VISAS.**—Section 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(4)) is amended by striking “(A) or (B) thereof” and inserting “(A), (B), or (N) thereof”.

(d) **EXPEDITED PROCESS.**—Not later than 45 days from the date of referral to a consular, immigration, or other designated official as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (a), special immigrant status shall be adjudicated and, if granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year of the alien’s arrival in the United States.

(e) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this title and the amendments made by this title, including—

(1) data related to the implementation of this title and the amendments made by this title;

(2) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (a); and

(3) any other information that the Secretary of Homeland Security determines to be appropriate.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

**SEC. 7003. REQUIREMENTS FOR ALIENS.**

(a) **REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.**—

(1) **DATABASE SEARCH.**—An alien may not be admitted to the United States under this title or an amendment made by this title until the Secretary of Homeland Security has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(2) **COOPERATION AND SCHEDULE.**—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by paragraph (1) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by section 7002(a).

(b) **REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.**—

(1) **REQUIREMENT TO SUBMIT FINGERPRINTS.**—

(A) **IN GENERAL.**—Not later than 30 days after the date that an alien enters the United States under this title or an amendment made by this title, the alien shall be fingerprinted and submit to the Secretary of

Homeland Security such fingerprints and any other personal biometric data required by the Secretary.

(B) **OTHER REQUIREMENTS.**—The Secretary of Homeland Security may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and National Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of subparagraph (A).

(2) **DATABASE SEARCH.**—The Secretary of Homeland Security shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(3) **COOPERATION AND SCHEDULE.**—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by paragraph (2) is completed not later than 180 days after the date on which the alien enters the United States.

(4) **ADMINISTRATIVE AND JUDICIAL REVIEW.**—

(A) **ADMINISTRATIVE REVIEW.**—An alien who is admitted to the United States under this title or an amendment made by this title who is determined to be ineligible for an adjustment of status pursuant to section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) may appeal such a determination through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security. The Secretary of Homeland Security shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(B) **JUDICIAL REVIEW.**—Nothing in this title, or in an amendment made by this title, may preclude application of section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)).

**SA 366.** Mr. CORZINE (for himself and Mr. BROWNBAC) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—ACCOUNTABILITY IN DARFUR**  
**SECTION 7001. SHORT TITLE.**

This title may be cited as the “Darfur Accountability Act of 2005”.

**SEC. 7002. DEFINITIONS.**

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term ‘appropriate congressional committees’ means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) **GOVERNMENT OF SUDAN.**—The term “Government of Sudan” means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) **MEMBER STATES.**—The term “member states” means the member states of the United Nations.

(4) **SUDAN NORTH-SOUTH PEACE AGREEMENT.**—The term “Sudan North-South Peace Agreement” means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People’s Liberation Army/Movement on January 9, 2005.

(5) **THOSE NAMED BY THE UN COMMISSION OF INQUIRY.**—The term “those named by the UN Commission of Inquiry” means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) **UN COMMITTEE.**—The term “UN Committee” means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

#### SEC. 7003. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in Darfur, Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, “[w]hen we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring”.

(3) President George W. Bush, in an address before the United Nations General Assembly on September 21, 2004, stated, “[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide”.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law and carried out other atrocities in the Darfur region.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(6) United Nations Security Council Resolution 1564 declares that if the Government of Sudan “fails to comply fully” with Security Council Resolutions 1556 and 1564, the Security Council shall consider taking “additional measures” against the Government of Sudan “as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan’s petroleum sector or individual members of the Government of Sudan, in order to take effective action to

obtain such full compliance and cooperation”.

(7) United Nations Security Council Resolution 1564 also “welcomes and supports the intention of the African Union to enhance and augment its monitoring mission in Darfur” and “urges member states to support the African Union in these efforts, including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission”.

(8) On February 1, 2005, the United Nations released the Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, dated January 25, 2005, which stated that, “[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur”, that such “acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity”, and that the “magnitude and large-scale nature of some crimes against humanity as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation”.

(9) The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General notes that, pursuant to its mandate and in the course of its work, the UN Commission collected information relating to individual perpetrators of acts constituting “violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes” and that the UN Commission has delivered to the Secretary-General of the United Nations a sealed file of those named by the UN Commission with the recommendation that the “file be handed over to a competent Prosecutor”.

(10) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590, establishing the United Nations Mission in Sudan (UNMIS) consisting of 10,000 military personnel and 715 civilian police personnel. The mandate of UNMIS includes to “closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS) with a view towards expeditiously reinforcing the effort to foster peace in Darfur, especially with regard to the Abuja peace process and the African Union Mission in Sudan”. Security Council Resolution 1590 also urged the Secretary-General and United Nations High Commissioner for Human Rights to increase the number and deployment rate of human rights monitors to Darfur.

(11) On March 29, 2005, the United Security Council passed Security Council Resolution 1591, establishing a Committee of the Security Council and a Panel of Experts to identify individuals who have impeded the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, or who are responsible for offensive overflights, and calling on member states to prevent those individuals identified from entry into or transit of their territories and to freeze those individuals non-exempted assets.

(12) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593, referring the situation in Darfur since July 1, 2002, to the Prosecutor of the International Criminal Court (ICC) with the proviso that personnel from a state outside Sudan not a party to the Rome Statute of the ICC shall not be subject to the ICC in this instance.

#### SEC. 7004. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) extends the freezing of property and assets and denial of visas and entry, pursuant to United Nations Security Council Resolution 1591, to include—

(i) those named by the UN Commission of Inquiry;

(ii) family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(iii) any associates of those named by the UN Commission of Inquiry and those designated by the UN Committee to whom assets or property of those named by the UN Commission of Inquiry or those designated by the UN Committee were transferred on or after July 1, 2002;

(B) urges member states to submit to the Security Council the name of any individual that the government of any such member state believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, or crimes against humanity in Darfur, along with evidence supporting such belief so that the Security Council may consider imposing sanctions pursuant to United Nations Security Council Resolution 1591;

(C) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as—

(i) humanitarian organizations are granted full, unimpeded access to Darfur;

(ii) the Government of Sudan cooperates with humanitarian relief efforts, carries out activities to demobilize and disarm Janjaweed militias and any other militias supported or created by the Government of Sudan, and cooperates fully with efforts to bring to justice the individuals responsible for genocide, war crimes, or crimes against humanity in Darfur;

(iii) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(iv) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(v) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(D) establishes a military no-fly zone in Darfur;

(E) supports the expansion of the African Union force in Darfur so that such force achieves the size and strength needed to prevent ongoing fighting and violence in Darfur;

(F) urges member states to accelerate assistance to the African Union force in Darfur;

(G) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force in the region, UNMIS, international humanitarian organizations, and United Nations monitors;

(H) extends the embargo of military equipment established by paragraphs 7 through 9 of Security Council Resolution 1556 and expanded by Security Council Resolution 1591

to include a total prohibition of sale or supply to the Government of Sudan;

(I) supports African Union and other international efforts to negotiate peace talks between the Government of Sudan and rebels in Darfur, calls on the Government of Sudan and rebels in Darfur to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004, and subsequent agreements, and urges parties to engage in peace talks without preconditions and seek to resolve the conflict; and

(J) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Darfur;

(3) the United States should work with other nations to ensure effective efforts to freeze the property and assets of and deny visas and entry to—

(A) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(B) any individuals the United States believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, and crimes against humanity in Darfur;

(C) family members of any person described in subparagraphs (A) or (B); and

(D) any associates of any such person to whom assets or property of such person were transferred on or after July 1, 2002;

(4) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that—

(A) humanitarian organizations are being granted full, unimpeded access to Darfur and the Government of Sudan is providing full cooperation with humanitarian efforts;

(B) concrete, sustained steps are being taken toward demobilizing and disarming Janjaweed militias and any other militias supported or created by the Government of Sudan;

(C) the Government of Sudan is cooperating fully with international efforts to bring to justice those responsible for genocide, war crimes, or crimes against humanity in Darfur;

(D) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(E) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(F) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(5) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to establish mechanisms for the enforcement of a no-fly zone in Darfur;

(6) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence, and member states should support fully this extension;

(7) the President should accelerate assistance to the African Union force in Darfur and discussions with the African Union and the European Union and other supporters of the African Union force on the needs of such force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and

command and control assistance, and intelligence;

(8) the President should appoint a Presidential Envoy for Sudan—

(A) to support the implementation of the Sudan North-South Peace Agreement;

(B) to seek ways to bring stability and peace to Darfur;

(C) to address instability elsewhere in Sudan; and

(D) to seek a comprehensive peace throughout Sudan;

(9) United States officials, including the President, the Secretary of State, and the Secretary of Defense, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur;

(10) the Secretary of State should immediately engage in a concerted, sustained campaign with other members of the United Nations Security Council and relevant countries with the aim of achieving the goals described in paragraph (9);

(11) the United States fully supports the Sudan North-South Peace Agreement and urges the rapid implementation of its terms;

(12) the United States condemns attacks on humanitarian workers and calls on all forces in Darfur, including forces of the Government of Sudan, all militia, and forces of the Sudan Liberation Army/Movement and the Justice and Equality Movement, to refrain from such attacks; and

(13) The United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

#### SEC. 7005. IMPOSITION OF SANCTIONS.

(a) FREEZING ASSETS.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), take such action as may be necessary to immediately freeze the funds and other assets belonging to anyone so named, their family members, and any associates of those so named to whom assets or property of those so named were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control.

(b) VISA BAN.—Beginning at such times as the United States has access to the names of those named by the UN Commission of Inquiry and those designated by the UN Committee, the President shall, except as described under subsection (c), deny visas and entry to—

(1) those named by the UN Commission of Inquiry and those designated by the UN Committee;

(2) the family members of those named by the UN Commission of Inquiry and those designated by the UN Committee; and

(3) anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(c) WAIVER AUTHORITY.—The President may elect not to take an action otherwise required to be taken with respect to an individual under subsection (a) or (b) after submitting to Congress a report—

(1) naming the individual with respect to whom the President has made such election;

(2) describing the reasons for such election; and

(3) including the determination of the President as to whether such individual has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(d) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision to freeze the property or assets of, or deny a visa or entry to, any person under this section, the President shall report the name of such person to the appropriate congressional committees.

(e) NOTIFICATION OF WAIVERS OF SANCTIONS.—Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

#### SEC. 7006. REPORTS TO CONGRESS.

(a) REPORTS ON STABILIZATION IN SUDAN.—

(1) INITIAL REPORT.—Not later than 30 days after the date of enactment of this title, the Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to succeed at such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, current status of United States and other assistance to the African Union force, and additional United States assistance needed.

(2) SUBSEQUENT REPORTS.—

(A) UPDATES REQUIRED.—The Secretary of State, in conjunction with the Secretary of Defense, shall submit an update of the report submitted under paragraph (1) until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) DURATION OF REPORTING REQUIREMENT.—The Secretary of State shall submit any updated reports required under subparagraph (A)—

(i) every 60 days during the 2-year period following the date of the enactment of this Act; and

(ii) after such 2-year period, as part of the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497; 118 Stat. 4018).

(b) REPORT ON THOSE NAMED BY THE UN COMMISSION OF INQUIRY.—At such time as the United States has access to the names of those named by the UN Commission of Inquiry, the President shall submit to the appropriate congressional committees a report listing such names.

**SA 367.** Mr. BYRD proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego

border fence, and for other purposes; as follows:

On page 169, line 13, strike “\$897,191,000” and insert “\$361,191,000”.

**SA 368.** Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, add the following:

REQUIREMENT FOR TRANSFER OF FUNDS

SEC. 2105. Not later than 15 days after the date of the enactment of this Act, the authority contained under the heading “INTERNATIONAL DISASTER AND FAMINE ASSISTANCE” in chapter 2 of title II of Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 117 Stat. 1227) to transfer funds made available under such chapter, shall be fully exercised and the funds transferred as follows:

(1) \$53,000,000 shall be transferred to and consolidated with funds appropriated under the heading “PEACEKEEPING OPERATIONS” in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (as enacted in division D of Public Law 108-447; 118 Stat. 2988) and used for the support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan; and

(2) \$40,500,000 shall be transferred to and consolidated with funds appropriated under the heading “INTERNATIONAL DISASTER AND FAMINE ASSISTANCE” in such Act and used for assistance for Darfur, Sudan.

**SA 369.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SETTLEMENT OF CLAIM FOR DAMAGES AT LAS CRUCES INTERNATIONAL AIRPORT

SEC. 1122. (a) Of the funds appropriated or otherwise made available by this Act, \$2,100,000 shall be made available to the Secretary of the Air Force to settle the claim filed by the City of Las Cruces, New Mexico, for damages resulting from the operation of

Air Force aircraft on runway 04/22 at Las Cruces International Airport on August 26, 2004.

(b) The acceptance by the City of Las Cruces, New Mexico, of the settlement amount made available under subsection (a) shall be in full satisfaction of the claim for damages described in such subsection.

**SA 370.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 175, beginning on line 24, strike “\$1,631,300,000” and all that follows through “Provided,” on line 25, and insert “\$1,636,300,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than \$5,000,000 shall be made available for programs and activities to promote democracy, including political party development, in Lebanon and such amount shall be managed by the Bureau of Democracy, Human Rights, and Labor of the Department of State: *Provided further*,”.

On page 179, line 24, strike “\$40,000,000” and insert “\$35,000,000”.

**SA 371.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

SEC. 1122. Congress appropriated \$1,000,000 in Operations & Maintenance, Navy within both the Fiscal Year 2004 and 2005 Defense Appropriations bills for the Navy to conduct a recruitment and retention screening test program called the “Vital Learning Recruitment/Retention Screening Test Program”. The Navy is strongly encouraged to ensure that it utilizes a “best value” acquisition strategy which emphasizes the past performance technical capabilities of the company it selects to execute this program for which the \$2,000,000 was appropriated.

**SA 372.** Mr. CORNYN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driv-

er’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) our immigration system is badly broken, fails to serve the interests of our national security and our national economy, and undermines respect for the rule of law;

(2) in a post-9/11 world, national security demands a comprehensive solution to our immigration system;

(3) Congress must engage in a careful and deliberative discussion about the need to bolster enforcement of, and comprehensively reform, our immigration laws;

(4) Congress should not short-circuit that discussion by attaching amendments to this supplemental outside of the regular order; and

(5) Congress should not delay the enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate.

**SA 373.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking “appropriated” and all that follows through the period and inserting the following: “appropriated to carry out this subsection—

“(A) such sums as may be necessary for fiscal year 2005;

“(B) \$750,000,000 for fiscal year 2006;

“(C) \$850,000,000 for fiscal year 2007; and

“(D) \$950,000,000 for each of the fiscal years 2008 through 2011.”.

(b) LIMITATION ON USE OF FUNDS.—Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

“(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.”.

**SA 374.** Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr.



LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the bill, on page 171, line 2 strike "\$150,000,000 through line 6 and insert in lieu thereof the following:

"\$47,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That of the funds provided under this heading, \$12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress)."

**SA 375.** Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005**

**SEC. 701. SHORT TITLE.**

This title may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2005" or the "AgJOBS Act of 2005".

**SEC. 702. DEFINITIONS.**

In this title:

(1) **AGRICULTURAL EMPLOYMENT.**—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) **EMPLOYER.**—The term "employer" means any person or entity, including any

farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) **JOB OPPORTUNITY.**—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Homeland Security.

(5) **TEMPORARY.**—A worker is employed on a "temporary" basis where the employment is intended not to exceed 10 months.

(6) **UNITED STATES WORKER.**—The term "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) **WORK DAY.**—The term "work day" means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of "man-day" under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

**Subtitle A—Adjustment to Lawful Status**  
**SEC. 711. AGRICULTURAL WORKERS.**

(a) **TEMPORARY RESIDENT STATUS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) **AUTHORIZED TRAVEL.**—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) **AUTHORIZED EMPLOYMENT.**—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) **TERMINATION OF TEMPORARY RESIDENT STATUS.**—

(A) **IN GENERAL.**—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) **GROUND FOR TERMINATION OF TEMPORARY RESIDENT STATUS.**—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident status was the result of fraud or willful misrepresentation (as described in

section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(5) **RECORD OF EMPLOYMENT.**—

(A) **IN GENERAL.**—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) **SUNSET.**—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of enactment of this Act.

(b) **RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) **DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.**—An alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers temporary resident status upon that alien under subsection (a).

(3) **TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.**—

(A) **PROHIBITION.**—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) **TREATMENT OF COMPLAINTS.**—

(i) **ESTABLISHMENT OF PROCESS.**—The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) **INITIATION OF ARBITRATION.**—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) **ARBITRATION PROCEEDINGS.**—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) **EFFECT OF ARBITRATION FINDINGS.**—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) **TREATMENT OF ATTORNEY'S FEES.**—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) **NONEXCLUSIVE REMEDY.**—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) **EFFECT ON OTHER ACTIONS OR PROCEEDINGS.**—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) **CIVIL PENALTIES.**—

(i) **IN GENERAL.**—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) **LIMITATION.**—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) **ADJUSTMENT TO PERMANENT RESIDENCE.**—

(1) **AGRICULTURAL WORKERS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the Secretary deter-

mines that the following requirements are satisfied:

(i) **QUALIFYING EMPLOYMENT.**—The alien has performed at least 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) **QUALIFYING YEARS.**—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) **QUALIFYING WORK IN FIRST 3 YEARS.**—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) **APPLICATION PERIOD.**—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) **PROOF.**—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) **DISABILITY.**—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(B) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS.**—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) **GROUND FOR REMOVAL.**—Any alien granted temporary resident status under subsection (a) who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such subparagraph.

(2) **SPOUSES AND MINOR CHILDREN.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted temporary resident status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) **TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.**—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an "employment authorized" endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(C) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.**—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) **APPLICATIONS.**—

(1) **TO WHOM MAY BE MADE.**—

(A) **WITHIN THE UNITED STATES.**—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; or

(II) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) **OUTSIDE THE UNITED STATES.**—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) **PRELIMINARY APPLICATIONS.**—

(i) **IN GENERAL.**—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) **DEFINITION.**—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary

evidence which the applicant intends to submit as proof of such employment.

(iii) **ELIGIBILITY.**—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) **TRAVEL DOCUMENTATION.**—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) **DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.**—

(A) **IN GENERAL.**—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95-145, or the Immigration Reform and Control Act of 1986.

(B) **REFERENCES.**—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act as "qualified designated entities".

(3) **PROOF OF ELIGIBILITY.**—

(A) **IN GENERAL.**—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) **DOCUMENTATION OF WORK HISTORY.**—

(i) **BURDEN OF PROOF.**—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) **TIMELY PRODUCTION OF RECORDS.**—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) **SUFFICIENT EVIDENCE.**—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) **TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.**—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) **LIMITATION ON ACCESS TO INFORMATION.**—Files and records prepared for purposes of this subsection by qualified designated enti-

ties operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) **CONFIDENTIALITY OF INFORMATION.**—

(A) **IN GENERAL.**—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department of Homeland Security, or bureau or agency thereof, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) **REQUIRED DISCLOSURES.**—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) **CONSTRUCTION.**—

(i) **IN GENERAL.**—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department of Homeland Security pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) **CRIMINAL CONVICTIONS.**—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) **CRIME.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed \$10,000.

(7) **PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.**—

(A) **CRIMINAL PENALTY.**—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) **INADMISSIBILITY.**—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in sec-

tion 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) **ELIGIBILITY FOR LEGAL SERVICES.**—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) **APPLICATION FEES.**—

(A) **FEE SCHEDULE.**—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) **PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.**—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) **DISPOSITION OF FEES.**—

(i) **IN GENERAL.**—There is established in the general fund of the Treasury a separate account, which shall be known as the "Agricultural Worker Immigration Status Adjustment Account". Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) **USE OF FEES FOR APPLICATION PROCESSING.**—Amounts deposited in the "Agricultural Worker Immigration Status Adjustment Account" shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) **WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.**—

(1) **NUMERICAL LIMITATIONS DO NOT APPLY.**—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) **WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.**—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) **GROUNDS OF EXCLUSION NOT APPLICABLE.**—The provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) **WAIVER OF OTHER GROUNDS.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) **GROUNDS THAT MAY NOT BE WAIVED.**—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) **CONSTRUCTION.**—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) **SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.**—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien’s apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$40,000,000 for each of fiscal years 2006 through 2009.

#### SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

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

“(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

#### Subtitle B—Reform of H-2A Worker Program SEC. 721. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

##### “H-2A EMPLOYER APPLICATIONS

“SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

“(1) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

“(A) the assurances described in subsection (b);

“(B) a description of the nature and location of the work to be performed;

“(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

“(D) the number of job opportunities in which the employer seeks to employ the workers.

“(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

“(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

“(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

“(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm’s length between a bona fide union and the employer.

“(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant be-

cause the former occupant is on strike or being locked out in the course of a labor dispute.

“(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer’s employees in the occupational classification at the place or places of employment for which aliens are sought.

“(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker’s employment which will provide benefits at least equal to those provided under the State’s workers’ compensation law for comparable employment.

“(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(E) REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph

(E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker’s employment which will provide benefits at least equal to those provided under the State’s workers’ compensation law for comparable employment.

“(H) EMPLOYMENT OF UNITED STATES WORKERS.—

“(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

“(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer’s job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America’s Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer’s need for H-2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer’s place of employment and ending on the date on which 50 per-

cent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H-2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A through 218C.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while an alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H-2A workers under an offer of terms and

conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer’s principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

“H-2A EMPLOYMENT REQUIREMENTS

“SEC. 218A. (a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer’s H-2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H-2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer’s election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area

of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing’s management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be

equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker’s transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker’s transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker’s transportation and subsistence to such subsequent employer’s place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker’s living quarters and the employer’s work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 and continuing for 3 years thereafter, no adverse

effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker’s wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker’s wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker’s total earnings for the pay period;

“(ii) the worker’s hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4));

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker’s wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than June 1, 2007, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H-2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the

absence of the employment of H-2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this subparagraph referred to as the ‘Commission’).

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(V) recommendations for future wage protection under this section.

“(iv) FINAL REPORT.—Not later than June 1, 2007, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

“(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

“(4) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker’s Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker’s Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the ‘three-fourths guarantee’ described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker’s employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

“(5) MOTOR VEHICLE SAFETY.—

“(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

“(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H-2A worker within the United States.

“(ii) DEFINED TERM.—In this paragraph, the term ‘uses or causes to be used’—

“(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

“(II) does not apply to—

“(aa) transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or

“(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers’ own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

“(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H-2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

“(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

“(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the

provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

“(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

“(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

“(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H-2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS’ COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers’ compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer’s application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

“PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS

“SEC. 218B. (a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the

United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H-2A worker who violates any term or condition of the worker's nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an associa-

tion pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

“(A) for a period of more than 10 months; or

“(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

“(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

“(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H-2A worker (including any extensions) is 3 years.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H-2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H-2A worker unless the alien has remained outside the United States for a continuous period equal to at least  $\frac{1}{2}$  the duration of the alien's previous period of authorized status as an H-2A worker (including any extensions).

“(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H-2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

“(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEPHERDERS.—Notwithstanding any



provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheep-herders—

“(1) may be admitted for a period of 12 months;

“(2) may be extended for a continuous period of up to 3 years; and

“(3) shall not be subject to the requirements of subsection (h)(5) relating to periods of absence from the United States.

“WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

“SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 3 years.

“(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

“(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

“(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H-2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

“(2) The reimbursement of transportation as required under section 218A(b)(2).

“(3) The payment of wages required under section 218A(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that

a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) AWARD OF DAMAGES OR OTHER EQUI- TATIVE RELIEF.—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) WORKERS’ COMPENSATION BENEFITS; EX- CLUSIVE REMEDY.—

“(A) Notwithstanding any other provision of this section, where a State’s workers’ compensation law is applicable and coverage is provided for an H-2A worker, the workers’ compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State’s work- ers’ compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers’ compensation law; or

“(ii) rights conferred under a State work- ers’ compensation law.

“(8) TOLLING OF STATUTE OF LIMITATIONS.— If it is determined under a State workers’ compensation law that the workers’ compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers’ compensation law was pending. The statute of limitations for an action for actual dam- ages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers’ compensation law.

“(9) PRECLUSIVE EFFECT.—Any settlement by an H-2A worker and H-2A employer reached through the mediation process re- quired under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H-2A em- ployer on behalf of an H-2A worker of a com- plaint filed with the Secretary of Labor under this section or any finding by the Sec- retary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided oth- erwise in the settlement agreement.

“(d) DISCRIMINATION PROHIBITED.—

“(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimid- ate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discrimi- nate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for em- ployment) because the employee has dis- closed information to the employer, or to

any other person, that the employee reason- ably believes evidences a violation of section 218 or 218A or any rule or regulation per- taining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding con- cerning the employer’s compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H-2A WORK- ERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enu- merated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enu- merated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPRO- PRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H-2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to re- main and work in the United States may be allowed to seek other appropriate employ- ment in the United States for a period not to exceed the maximum period of stay author- ized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIA- TION.—An employer on whose behalf an ap- plication is filed by an association acting as its agent is fully responsible for such appli- cation, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the applica- tion itself. If such an employer is deter- mined, under this section, to have com- mitted a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowl- edge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is de- termined to have committed a violation under this section, the penalty for such violation shall apply only to the association un- less the Secretary of Labor determines that an association member or members partici- pated in or had knowledge, or reason to know of the violation, in which case the pen- alty shall be invoked against the association member or members as well.

“DEFINITIONS

“SEC. 218D. For purposes of sections 218 through 218D:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agri- cultural employment includes employment under section 101(a)(15)(H)(ii)(a).

“(2) BONA FIDE UNION.—The term ‘bona fide union’ means any organization in which em- ployees participate and which exists for the purpose of dealing with employers con- cerning grievances, labor disputes, wages, rates of pay, hours of employment, or other

terms and conditions of work for agricul- tural employees. Such term does not include an organization formed, created, adminis- tered, supported, dominated, financed, or controlled by an employer or employer asso- ciation or its agents or representatives.

“(3) DISPLACE.—The term ‘displace’, in the case of an application with respect to 1 or more H-2A workers by an employer, means laying off a United States worker from a job for which the H-2A worker or workers is or are sought.

“(4) ELIGIBLE.—The term ‘eligible’, when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)).

“(5) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agri- cultural employment.

“(6) H-2A EMPLOYER.—The term ‘H-2A em- ployer’ means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

“(7) H-2A WORKER.—The term ‘H-2A work- er’ means a nonimmigrant described in sec- tion 101(a)(15)(H)(ii)(a).

“(8) JOB OPPORTUNITY.—The term ‘job op- portunity’ means a job opening for tem- porary full-time employment at a place in the United States to which United States workers can be referred.

“(9) LAYS OFF.—

“(A) IN GENERAL.—The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

“(ii) does not include any situation in which the worker is offered, as an alterna- tive to such loss of employment, a similar employment opportunity with the same em- ployer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher com- pensation and benefits than the position from which the employee was discharged, re- gardless of whether or not the employee ac- cepts the offer.

“(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an em- ployee’s rights under a collective bargaining agreement or other employment contract.

“(10) REGULATORY DROUGHT.—The term ‘regulatory drought’ means a decision subse- quent to the filing of the application under section 218 by an entity not under the con- trol of the employer making such filing which restricts the employer’s access to water for irrigation purposes and reduces or limits the employer’s ability to produce an agricultural commodity, thereby reducing the need for labor.

“(11) SEASONAL.—Labor is performed on a ‘seasonal’ basis if—

“(A) ordinarily, it pertains to or is of the kind exclusively performed at certain sea- sons or periods of the year; and

“(B) from its nature, it may not be contin- uous or carried on throughout the year.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(13) TEMPORARY.—A worker is employed on a ‘temporary’ basis where the employ- ment is intended not to exceed 10 months.

“(14) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the

United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).”

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

- “Sec. 218. H-2A employer applications.
- “Sec. 218A. H-2A employment requirements.
- “Sec. 218B. Procedure for admission and extension of stay of H-2A workers.
- “Sec. 218C. Worker protections and labor standards enforcement.
- “Sec. 218D. Definitions.”.

**Subtitle C—Miscellaneous Provisions**

**SEC. 731. DETERMINATION AND USE OF USER FEES.**

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(b) DETERMINATION OF SCHEDULE.—  
 (1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer’s application under section 218 of the Immigration and Nationality Act, as added by section 721 of this Act, and sufficient to provide for the direct costs of providing services related to an employer’s authorization to employ eligible aliens pursuant to this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—  
 (A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as added by section 721 of this Act, and the provisions of this Act.

**SEC. 732. REGULATIONS.**

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section 721 of this Act, shall take effect on the effective date of section 721 and shall be issued not later than 1 year after the date of enactment of this Act.

**SEC. 733. RELIGIOUS ORGANIZATIONS.**

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following: “(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.”.

**SEC. 734. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided, sections 721 and 731 shall take effect 1 year after the date of enactment of this Act.  
 (b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this title.

**SA 376.** Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL  
 DEPARTMENT OF THE ARMY  
 OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency repair of the Fern Ridge Dam, Oregon, \$24,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

**SA 377.** Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security

standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5  
 DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC  
 ADMINISTRATION  
 OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research and Facilities”, \$3,000,000, to remain available until expended, for the National Marine Fisheries Service to establish a cooperative research program to study the causes of lobster disease and the decline in the lobster fishery in New England waters: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

**SA 378.** Mr. SCHUMER submitted an amendment intended to be proposed by the him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—MONTSERRAT IMMIGRATION  
 FAIRNESS ACT**

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Montserrat Immigration Fairness Act”.

**SEC. 702. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF MONTSERRAT.**

(a) IN GENERAL.—The status of any alien described in subsection (c) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence, if the alien—

(1) applies for such adjustment within 1 year after the date of enactment of this Act; and

(2) is determined to be admissible to the United States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLICABLE.—For purposes of determining admissibility under subsection (a)(2), the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(c) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status under subsection (a) only if the alien—

(1) is a national of Montserrat; and

(2) was granted temporary protected status in the United States by the Secretary of Homeland Security pursuant to the designation of Montserrat under section 244(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(1)) on August 28, 1997.

**SEC. 703. EFFECT OF APPLICATION ON CERTAIN ORDERS.**

An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily, from the United States through an order of removal issued under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order of removal, apply for adjustment of status under section 702. Such an alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary of Homeland Security approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal shall be effective and enforceable to the same extent as if the application had not been made.

**SEC. 704. WORK AUTHORIZATION.**

The Secretary of Homeland Security shall authorize an alien who has applied for adjustment of status under section 702 to engage in employment in the United States during the pendency of such application and shall provide the alien with an appropriate document signifying authorization of employment.

**SEC. 705. ADJUSTMENT OF STATUS FOR CERTAIN FAMILY MEMBERS.**

(a) IN GENERAL.—The status of an alien shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence if the alien—

(1) is the spouse, parent, or unmarried son or daughter of an alien whose status is adjusted under section 702;

(2) applies for adjustment under this section within 2 years after the date of enactment of this Act; and

(3) is determined to be admissible to the United States for permanent residence.

(b) CERTAIN GROUNDS FOR EXCLUSION INAPPLICABLE.—For purposes of determining admissibility under subsection (a)(3), the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and 7(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

**SEC. 706. AVAILABILITY OF REVIEW.**

(a) ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide to aliens applying for adjustment of status under section 702 or 705 the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(b) LIMITATION ON JUDICIAL REVIEW.—A determination by the Secretary of Homeland Security as to whether the status of any alien should be adjusted under this title is final and shall not be subject to review by any court.

**SEC. 707. NO OFFSET IN NUMBER OF VISAS AVAILABLE.**

The granting of adjustment of status under section 702 shall not reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

**SA 379.** Mrs. HUTCHISON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists

from abusing the asylum laws of the United States to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following new section:

**VISAS FOR NURSES**

SEC. 6047. Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence “and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year 2001, 2002, 2003, or 2004 and the number of such visas that were actually used in such fiscal year shall be available only to employment-based immigrants, and the dependents of such immigrants, whose schedule A petition, as defined in section 656.5 of title 20, Code of Federal Regulations, was approved by the Secretary of Labor”; and

(2) in paragraph (2)(A), by striking “and 2000” and inserting “through 2004”.

**SA 380.** Mr. KOHL (for himself, Mr. DEWINE, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, line 2 strike “\$150,000,000” and all through line 6 and insert in lieu thereof the following:

“\$470,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That of the funds provided under this heading, \$12,000,000 shall be available to carry out programs under the Food for Progress Act of 1985: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).”

**SA 381.** Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from

abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**TITLE VII—TEMPORARY AGRICULTURAL WORKERS****SEC. 701. SHORT TITLE.**

This title may be cited as the “Temporary Agricultural Work Reform Act of 2005”.

**Subtitle A—Temporary H-2A Workers****SEC. 711. ADMISSION OF TEMPORARY H-2A WORKERS.**

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

**“ADMISSION OF TEMPORARY H-2A WORKERS**

“SEC. 218. (a) APPLICATION.—An alien may not be admitted as an H-2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

“(1) TEMPORARY OR SEASONAL WORK OR SERVICES.—

“(A) IN GENERAL.—The agricultural employment for which the H-2A worker or workers is or are sought is temporary or seasonal, the number of workers sought, and the wage rate and conditions under which they will be employed.

“(B) TEMPORARY OR SEASONAL WORK.—For purposes of subparagraph (A), a worker is employed on a ‘temporary’ or ‘seasonal’ basis if the employment is intended not to exceed 10 months.

“(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all workers employed in the jobs for which the H-2A worker or workers is or are sought and to all other temporary workers in the same occupation at the place of employment.

“(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and during a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

**“(4) RECRUITMENT.—**

“(A) IN GENERAL.—The employer shall attest that the employer—

“(i) conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation; and

“(ii) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

“(B) RECRUITMENT.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer—

“(i) places a job order with America's Job Bank Program of the Department of Labor; and

“(ii) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the area of intended employment.

“(C) ADVERTISEMENT CRITERIA.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

“(i) names the employer;

“(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

“(iii) provides a description of the vacancy that is specific enough to apprise United

States workers of the job opportunity for which certification is sought;

“(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

“(v) states the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

“(vi) offers wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

“(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is, or the nonimmigrants are, sought to any eligible United States worker who applies and is equally or better qualified for the job and who will be available at the time and place of need.

“(6) PROVISION OF INSURANCE.—If the job for which the nonimmigrant is, or the nonimmigrants are, sought is not covered by State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker’s employment which will provide benefits at least equal to those provided under the State workers’ compensation law for comparable employment.

“(7) STRIKE OR LOCKOUT.—There is not a strike or lockout in the course of a labor dispute which, under regulations promulgated by the Secretary of Labor, precludes the provision of the certification described in section 101(a)(15)(H)(ii)(a).

“(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H-2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

“(b) PUBLICATION.—The employer shall make available for public examination, within 1 working day after the date on which a petition under this section is filed, at the employer’s principal place of business or worksite, a copy of each such petition (and such accompanying documents as are necessary).

“(c) LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer) of the petitions filed under subsection (a). Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for public examination in Washington, District of Columbia.

“(d) SPECIAL RULES FOR CONSIDERATION OF PETITIONS.—The following rules shall apply in the case of the filing and consideration of a petition under subsection (a):

“(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary of Homeland Security may not require that the petition be filed more than 45 days before the first date the employer requires the labor or services of the H-2A worker or workers.

“(2) ISSUANCE OF APPROVAL.—Unless the Secretary of Homeland Security finds that the petition is incomplete or obviously inaccurate, the Secretary of Homeland Security shall provide a decision within 7 days of the date of the filing of the petition.

“(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

“(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural producers which use agricultural services.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or

sole employer of temporary agricultural workers, such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the petition was approved.

“(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer who places an H-2A worker with another H-2A employer if the other employer displaces a United States worker in violation of the condition described in subsection (a)(7).

“(4) TREATMENT OF VIOLATIONS.—

“(A) MEMBER’S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that is in violation of the conditions for approval with respect to the member’s petition, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

“(B) ASSOCIATION’S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

“(i) JOINT EMPLOYER.—If an association representing agricultural producers as a joint employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association’s petition, the denial shall apply only to the association and does not apply to any individual producer member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

“(ii) SOLE EMPLOYER.—If an association of agricultural producers approved as a sole employer is determined to have committed an act that is in violation of the conditions for approval with respect to the association’s petition, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

“(f) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—Regulations shall provide for an expedited procedure for the review of a denial of approval under this section, or at the applicant’s request, for a de novo administrative hearing respecting the denial.

“(g) MISCELLANEOUS PROVISIONS.—

“(1) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

“(2) PREEMPTION OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

“(3) FEES.—

“(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee in accordance with subparagraph (B) to recover the reasonable costs of processing petitions.

“(B) AMOUNTS.—

“(i) EMPLOYER.—The fee for each employer that receives a temporary alien agricultural labor certification shall be equal to \$100 plus \$10 for each job opportunity for H-2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed \$1,000.

“(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer-member receiving such certification shall pay a fee equal to \$100 plus \$10 for each job opportunity for H-2A workers certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed \$1,000. The joint employer association shall not be charged a separate fee.

“(C) PAYMENTS.—The fees collected under this paragraph shall be paid by check or money order made payable to the ‘Department of Homeland Security’. In the case of employers of H-2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H-2A workers under the petition may be paid by 1 check or money order.

“(D) INFLATION ADJUSTMENT.—In the case of any calendar year beginning after 2005, each dollar amount in subparagraph (B) may be increased by an amount equal to—

“(i) such dollar amount; multiplied by

“(ii) the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2004.

“(h) FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a), or a material misrepresentation of fact in a petition under subsection (a)—

“(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(2) the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 1 year.

“(i) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a)—

“(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(2) the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 2 years;

“(3) for a second violation, the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

“(4) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

“(j) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition

of subsection (a) or a willful misrepresentation of a material fact in a petition under subsection (a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (a) or during the period of 30 days preceding such period of employment—

“(1) the Secretary of Labor shall notify the Secretary of Homeland Security of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate;

“(2) the Secretary of Homeland Security may disqualify the employer from the employment of H-2A workers for a period of 5 years; and

“(3) for a second violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H-2A workers.

“(k) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (a) in excess of \$90,000.

“(l) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsection (a)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under subsection (a)(2) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(m) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—

“(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

“(A) IN GENERAL.—Employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

“(B) INTERPRETATIONS AND DETERMINATIONS.—While benefits, wages, and other terms and conditions of employment specified in this subsection are required to be provided in connection with employment under this section, every interpretation and determination made under this Act or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the services of workers to their employers and the employment opportunities afforded to workers by their employers, including those employment opportunities that require United States workers or H-2A workers to travel or relocate in order to accept or perform employment, mutually benefit such workers, as well as their families, and employers, principally benefitting neither, and that employment opportunities within the United States further benefit the United States economy as a whole and should be encouraged.

“(2) REQUIRED WAGES.—

“(A) An employer applying for workers under subsection (a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less than the prevailing wage.

“(B) In complying with subparagraph (A), an employer may request and obtain a prevailing wage determination from the State employment security agency.

“(C) In lieu of the procedure described in subparagraph (B), an employer may rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of intended employment that has been conducted or funded by the employer or a group of employers, that meets criteria specified by the Secretary of Labor in regulations.

“(D) An employer who obtains such prevailing wage determination, or who relies on a qualifying survey of prevailing wages, and who pays the wage determined to be prevailing, shall be considered to have complied with the requirement of subparagraph (A).

“(E) No worker shall be paid less than the greater of the prevailing wage or the applicable State minimum wage.

“(3) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying for workers under subsection (a) shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable State or local standards, Federal temporary labor camp standards shall apply.

“(C) CERTIFICATE OF INSPECTION.—Prior to any occupation by a worker in housing described in subparagraph (B), the employer shall submit a certificate of inspection by an approved Federal or State agency to the Secretary of Labor.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the requirement under clause (v) is satisfied.

“(ii) ASSISTANCE TO LOCATE HOUSING.—Upon the request of a worker seeking assistance in locating housing, the employer shall make a good-faith effort to assist the worker in locating housing in the area of intended employment.

“(iii) LIMITATION.—A housing allowance may not be used for housing which is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under

section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

“(iv) REPORTING REQUIREMENT.—The employer must provide the Secretary of Labor with a list of the names of all workers assisted under this subparagraph and the local address of each such worker.

“(v) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(vi) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(G) EXEMPTION.—An employer applying for workers under subsection (a) whose primary job site is located 150 miles or less from the United States border shall not be required to provide housing or a housing allowance.

“(4) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—

“(i) IN GENERAL.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, measured from the worker's first day of work in such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment by the employer.

“(ii) OTHER FEES.—The employer shall not be required to reimburse visa, passport, consular, or international border-crossing fees or any other fees associated with the worker's lawful admission into the United States to perform employment that may be incurred by the worker.

“(iii) TIMELY REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment shall be considered timely if such reimbursement is made not later than the worker's first regular payday after the worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall

be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker was approved to enter the United States to work for the employer.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less or if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters (such as housing provided by the employer pursuant to paragraph (3), including housing provided through a housing allowance) and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(5) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT; TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any

form of natural disaster (including a flood, hurricane, freeze, earthquake, fire, or drought), plant or animal disease, pest infestation, or regulatory action, before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

“(n) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker must file a petition with the Secretary of Homeland Security. The petition shall include the attestations for the certification described in section 101(a)(15)(H)(ii)(a).

“(o) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security—

“(1) shall establish a procedure for expedited adjudication of petitions filed under subsection (n); and

“(2) not later than 7 working days after such filing shall, by fax, cable, or other means assuring expedited delivery transmit a copy of notice of action on the petition—

“(A) to the petitioner; and

“(B) in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States.

“(p) DISQUALIFICATION.—

“(1) Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

“(2) WAIVERS.—

“(A) IN GENERAL.—An alien outside the United States, and seeking admission under section 101(a)(15)(H)(ii)(a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the previous violation occurred on or before April 1, 2005.

“(B) LIMITATION.—In any case in which an alien is admitted to the United States upon having a ground of inadmissibility waived under subparagraph (A), such waiver shall be considered to remain in effect unless the alien again violates a material provision of this section or otherwise violates a term or condition of admission into the United States as a nonimmigrant, in which case such waiver shall terminate.

“(q) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Secretary of Homeland Security within 7 days of an H-2A worker's having prematurely abandoned employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary of Homeland Security shall promptly

remove from the United States any H-2A worker who violates any term or condition of the worker's nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(r) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security required by subsection (q)(2), the Secretary of State shall promptly issue a visa to, and the Secretary of Homeland Security shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker who abandons or prematurely terminates employment.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference required to be accorded United States workers under any other provision of this Act.

“(s) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—The Department of Homeland Security shall provide each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

“(A) authorizes the alien's entry into the United States; and

“(B) serves, for the appropriate period, as an employment eligibility document.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall—

“(i) be compatible with other databases of the Secretary of Homeland Security for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(t) EXTENSION OF STAY OF H-2A WORKERS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—

“(A) IN GENERAL.—If an employer seeks to employ an H-2A worker who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (n) shall request an extension of the alien's stay.

“(B) COMMENCEMENT; MAXIMUM PERIOD.—An extension of stay under this subsection—

“(i) may only commence at the completion of the H-2A worker's stay with the current employer; and

“(ii) shall not exceed 10 months.

“(2) WORK AUTHORIZATION UPON FILING PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence or continue the employment described in a petition under paragraph (1) on the date on which the petition is filed. The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document, as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(B) APPROVAL.—Upon approval of a petition for an extension of stay or change in the alien’s authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(C) DEFINITION.—In this paragraph, the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(u) SPECIAL RULE FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOATHERDERS, OR DAIRY WORKERS.—Notwithstanding any other provision of this section, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a shepherd, goatherder, or dairy worker may be admitted for a period of up to 2 years.

“(v) DEFINITIONS.—For purposes of this section:

“(1) AREA OF EMPLOYMENT.—The term ‘area of employment’ means the area within normal commuting distance of the worksite or physical location where the work of the H-2A worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

“(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to that employment.

“(3) DISPLACE.—In the case of a petition with respect to 1 or more H-2A workers by an employer, the employer is considered to ‘displace’ a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the H-2A worker or workers is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

“(4) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(5) LAYS OFF.—

“(A) IN GENERAL.—The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (a); but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (a)(7), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(6) PREVAILING WAGE.—The term ‘prevailing wage’ means, with respect to an agri-

cultural occupation in an area of intended employment, the rate of wages that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

“(7) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

“(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

“(B) an alien provided status under section 220.”

#### SEC. 712. LEGAL ASSISTANCE PROVIDED BY THE LEGAL SERVICES CORPORATION.

Section 305 of the Immigrant Reform and Control Act of 1986 (8 U.S.C. 1101 note) is amended—

(1) by striking “A nonimmigrant” and inserting the following:

“(a) IN GENERAL.—A nonimmigrant”; and

(2) by adding at the end the following:

“(b) LEGAL ASSISTANCE.—The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

“(1) is present in the United States at the time the legal assistance is provided; and

“(2) is an alien to whom subsection (a) applies.”

“(c) REQUIRED MEDIATION.—The Legal Services Corporation may not bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or pursuant to those in the Blue Card Program established under section 220 of such Act, unless at least 90 days before bringing the action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.”

#### Subtitle B—Blue Card Status

##### SEC. 721. BLUE CARD PROGRAM.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

#### “BLUE CARD PROGRAM

“SEC. 220. (a) DEFINITIONS.—As used in this section—

“(1) the term ‘agricultural employment’—

“(A) means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986; and

“(B) includes any service or activity described in—

“(i) title 37, 37–3011, or 37–3012 (relating to landscaping) of the Department of Labor 2004–2005 Occupational Information Network Handbook;

“(ii) title 45 (relating to farming fishing, and forestry) of such handbook; or

“(iii) title 51, 51–3022, or 51–3023 (relating to meat, poultry, fish processors and packers) of such handbook.

“(2) the term ‘blue card status’ means the status of an alien who has been—

“(A) lawfully admitted for a temporary period under subsection (b); and

“(B) issued a tamper-resistant, machine-readable document that serves as the alien’s visa, employment authorization, and travel documentation and contains such biometrics as are required by the Secretary;

“(3) the term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

“(4) the term ‘Secretary’ means the Secretary of Homeland Security;

“(5) the term ‘small employer’ means an employer employing fewer than 500 employees based upon the average number of employees for each of the pay periods for the preceding 10 calendar months, including the period in which the employer employed H-2A workers; and

“(6) the term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien authorized to work in the relevant job opportunity within the United States, except—

“(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

“(B) an alien provided status under this section.

#### “(b) BLUE CARD PROGRAM.—

“(1) BLUE CARD PROGRAM.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

“(A) has been in the United States continuously as of April 1, 2005;

“(B) has performed more than 50 percent of total annual weeks worked in agricultural employment in the United States (except in the case of a child provided derivative status as of April 1, 2005);

“(C) is otherwise admissible to the United States under section 212, except as otherwise provided under paragraph (2); and

“(D) is the beneficiary of a petition filed by an employer, as described in paragraph (3).

“(2) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien’s eligibility for blue card status under paragraph (1)(C)—

“(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

“(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and

“(C) the Secretary may not waive paragraph (1), (2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

#### “(3) PETITIONS.—

“(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a petition for blue card status with the Secretary.

“(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

“(i) pay a registration fee of—

“(I) \$1,000, if the employer employs more than 500 employees; or

“(II) \$500, if the employer is a small employer employing 500 or fewer employees;

“(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition; and

“(iii) attest that the employer conducted adequate recruitment in the metropolitan statistical area of intended employment before filing the attestation and was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought, which attestation shall be valid for a period of 60 days.

#### “(C) RECRUITMENT.—



“(i) The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

“(I) places a job order with America’s Job Bank Program of the Department of Labor; and

“(II) places a Sunday advertisement in a newspaper of general circulation or an advertisement in an appropriate trade journal or ethnic publication that is likely to be patronized by a potential worker in the metropolitan statistical area of intended employment.

“(ii) An advertisement under clause (i)(II) shall—

“(I) name the employer;

“(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

“(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

“(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

“(V) state the rate of pay, which must equal or exceed the wage paid for the occupation in the area of intended employment; and

“(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

“(D) NOTIFICATION OF DENIAL.—The Secretary shall provide notification of a denial of a petition filed for an alien to the alien and the employer who filed such petition.

“(E) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien’s nationality or last residence outside the United States.

“(4) BLUE CARD STATUS.—

“(A) BLUE CARD.—

“(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

“(I) authorizes the alien’s entry into the United States;

“(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment only; and

“(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

“(ii) BIOMETRICS.—

“(I) After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers, as required by the Secretary, at an Application Support Center.

“(II) The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer’s prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

“(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

“(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

“(I) eligible for employment;

“(II) claiming the identify of another person; and

“(III) authorized to be admitted; and

“(ii) compatible with—

“(I) other databases maintained by the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(C) AUTHORIZED TRAVEL.—During the period an alien is in blue card status granted under this section and pursuant to regulations established by the Secretary, the alien may make brief visits outside the United States. An alien may be readmitted to the United States after such a visit without having to obtain a visa if the alien presents the alien’s blue card document. Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

“(D) PORTABILITY.—

“(i) During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary’s receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

“(ii) If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien’s nationality or last residence.

“(iii) A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

“(iv) A petition by an employer under this subparagraph may not be accepted within 90 days after the adjudication of a previous petition on behalf of an alien.

“(E) ANNUAL CHECK IN.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien’s continued employment status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

“(F) TERMINATION OF BLUE CARD STATUS.—

“(i) During the period of blue card status granted an alien, the Secretary may terminate such status upon a determination by the Secretary that the alien is deportable or has become inadmissible.

“(ii) The Secretary may terminate blue card status granted to an alien if—

“(I) the Secretary determines that, without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i));

“(II) the alien is convicted of a felony or a misdemeanor committed in the United States; or

“(III) the Secretary determines that the alien is deportable or inadmissible under any other provision of this Act.

“(5) PERIOD OF AUTHORIZED ADMISSION.—

“(A) IN GENERAL.—The initial period of authorized admission for an alien with blue card status shall be not more than 3 years. The employer of such alien may petition for extensions of such authorized admission for 2 additional periods of not more than 3 years each.

“(B) EXCEPTION.—The limit on renewals shall not apply to a nonimmigrant in a position of full-time, non-temporary employment who has managerial or supervisory responsibilities. The employer of such nonimmigrant shall be required to make an additional attestation to such an employment classification with the filing of a petition.

“(C) REPORTING REQUIREMENT.—If an alien with blue card status ceases to be employed

by an employer, such employer shall immediately notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

“(D) LOSS OF EMPLOYMENT.—

“(i) An alien’s blue card status shall terminate if the alien is unemployed for 60 or more consecutive days.

“(ii) An alien whose period of authorized admission terminates under clause (i) shall be required to return to the country of the alien’s nationality or last residence.

“(6) GROUNDS FOR INELIGIBILITY.—

“(A) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having blue card status shall not again be eligible for the same blue card status if the alien violates any term or condition of such status.

“(B) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after April 1, 2005, without being admitted or paroled shall be ineligible for blue card status.

“(C) ALIENS IN H-2A STATUS.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

“(7) BAR ON CHANGE OR ADJUSTMENT OF STATUS.—

“(A) IN GENERAL.—An alien having blue card status shall not be eligible to change or adjust status in the United States or obtain a different nonimmigrant or immigrant visa from a United States Embassy or consulate.

“(B) LOSS OF ELIGIBILITY.—An alien having blue card status shall lose eligibility for such status if the alien—

“(i) files a petition to adjust status to legal permanent residence in the United States; or

“(ii) requests a consular processing for an immigrant visa outside the United States.

“(C) EXCEPTION.—An alien having blue card status may not adjust status to legal permanent resident status or obtain another nonimmigrant or immigrant status unless—

“(i)(I) the alien renounces his or her blue card status by providing written notification to the Secretary of Homeland Security or the Secretary of State; or

“(II) the alien’s blue card status otherwise expires; and

“(ii) the alien has resided and been physically present in the alien’s country of nationality or last residence for not less than 1 year after leaving the United States and the renouncement or expiration of blue card status.

“(8) JUDICIAL REVIEW.—There shall be no judicial review of a denial of blue card status.

“(c) SAFE HARBOR.—

“(1) SAFE HARBOR OF ALIEN.—An alien for whom a nonfrivolous petition is filed under this section—

“(A) shall be granted employment authorization pending final adjudication of the petition;

“(B) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the petition for change in status, unless the alien commits an act which renders the alien ineligible for such change of status; and

“(C) may not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as the petition for status is adjudicated.

“(2) SAFE HARBOR FOR EMPLOYER.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien. An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

“(d) TREATMENT OF SPOUSES AND CHILDREN.—

“(1) SPOUSES.—A spouse of an alien having blue card status shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status based only on an independent petition filed by an employer petitioning under subsection (b)(3) with respect to the employment of the spouse.

“(2) CHILDREN.—A child of an alien having blue card status shall not be eligible for the same temporary status unless—

“(A) the child is accompanying or following to join the alien; and

“(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 219 the following:

“Sec. 220. Blue card program.”.

**SEC. 722. PENALTIES FOR FALSE STATEMENTS.**

Section 1546 of title 18, United States Code, is amended—

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

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

“(c) Any person, including the alien who is the beneficiary of a petition, who—

“(1) files a petition under section 220(b)(3) of the Immigration and Nationality Act; and

“(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

“(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

“(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.”.

**SEC. 723. SECURING THE BORDERS.**

Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a comprehensive plan for securing the borders of the United States.

**SEC. 724. EFFECTIVE DATE.**

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

**SA 382.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, lines 7 through 10, strike “at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on” and insert “the previous 3 years, for at least 575 hours or 100 work days per year, before”.

**SA 383.** Mrs. FEINSTEIN submitted an amendment intended to be proposed

by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 5 and all that follows through page 14, line 23, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirements under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirements under clause (i), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

**SA 384.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 11 and all that follows through “(D)” on page 20, line 16, and insert the following:

(A) IN GENERAL.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary only if the applicant is represented by an attorney; or

(II) with a qualified entity designated under paragraph (2) only if the applicant consents to the forwarding of the application to the Secretary; and

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B)

**SA 385.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropria-

tions for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike lines 19 through 21, and insert the following:

(II) is convicted of a felony or misdemeanor committed in the United States.

**SA 386.** Mr. STEVENS (for himself and Mr. INOUE) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 149, line 10 strike “\$89,300,000” and insert “\$250,300,000” and on line 11 strike “\$20,000,000” and insert “\$181,000,000”.

**SA 387.** Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WARNER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following new title:

**TITLE VII—TEMPORARY WORKERS**

**SEC. 7001. SHORT TITLE.**

This title may be cited as the “Save Our Small and Seasonal Businesses Act of 2005”.

**SEC. 7002. NUMERICAL LIMITATIONS ON H-2B WORKERS.**

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

“(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this section and the amendments made by this section.

**SEC. 7003. FRAUD PREVENTION AND DETECTION FEE.**

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended by adding at the end the following:

“(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

“(i) The amount of the fee imposed under subparagraph (A) shall be \$150.”.

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking “H1-B and L” each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking “section 214(c)(12)” and inserting “paragraph (12) or (13) of section 214(c)”;

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking “(H)(i)” each place it appears and inserting “(H)(i), (H)(ii), ”; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end “or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)”.

(2) CONFORMING AMENDMENT.—The heading of such subsection 286 is amended by striking “H1-B AND L”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

**SEC. 7004. SANCTIONS.**

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

“(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

“(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

“(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

“(iii) The Secretary of Homeland Security may delegate to the Secretary of Labor, with

the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

“(iv) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

“(v) In this paragraph, the term ‘substantial failure’ means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

**SEC. 7005. ALLOCATION OF H-2B VISAS DURING A FISCAL YEAR.**

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 7002, is further amended by adding at the end the following new paragraph:

“(j) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.”.

**SEC. 7006. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H-2B NON-IMMIGRANTS.**

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105-277; 8 U.S.C. 1184 note) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following new subsection:

“(d) PROVISION OF INFORMATION.—

“(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives of the number of aliens who during the preceding 1-year period—

“(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

“(B) had such a visa or such status expire or be revoked or otherwise terminated.

“(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

“(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

“(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

“(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

“(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.”.

**SA 388.** Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

UP ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

**SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—**The amount appropriated by this chapter under the heading “OTHER PROCUREMENT, ARMY” is hereby increased by \$742,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading “OTHER PROCUREMENT, ARMY”, as increased by subsection (a), \$742,000,000 shall be available for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for armored security vehicles.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

**SA 389.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:  
**SEC. 6047. STATE REGULATION OF RESIDENT AND NONRESIDENT HUNTING AND FISHING.**

(a) SHORT TITLE.—This section may be cited as the “Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005”.

(b) DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.—

(1) IN GENERAL.—It is the policy of Congress that it is in the public interest for each

State to continue to regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(2) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the “commerce clause”) to the regulation of hunting or fishing by a State or Indian tribe.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

(d) STATE DEFINED.—For purposes of this section, the term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**SA 390.** Mr. OBAMA (for himself, Mr. GRAHAM, Mr. BINGAMAN, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ BENEFITS FOR MEMBERS OF THE ARMED FORCES RECUPERATING FROM INJURIES INCURRED IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.**

(a) PROHIBITION ON CHARGES FOR MEALS.—

(1) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of “medical hold”, in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(2) EFFECTIVE DATE.—The limitation in paragraph (1) shall take effect on January 1, 2005, and shall apply with respect to meals

provided members of the Armed Forces as described in that paragraph on or after that date.

(b) TELEPHONE BENEFITS.—

(1) PROVISION OF ACCESS TO TELEPHONE SERVICE.—The Secretary of Defense shall provide each member of the Armed Forces who is undergoing in any month medical recuperation or therapy, or is otherwise in the status of “medical hold”, in a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom access to telephone service at or through such military treatment facility in an amount for such month equivalent to the amount specified in paragraph (2).

(2) MONTHLY AMOUNT OF ACCESS.—The amount of access to telephone service provided a member of the Armed Forces under paragraph (1) in a month shall be the number of calling minutes having a value equivalent to \$40.

(3) ELIGIBILITY AT ANY TIME DURING MONTH.—A member of the Armed Forces who is eligible for the provision of telephone service under this subsection at any time during a month shall be provided access to such service during such month in accordance with that paragraph, regardless of the date of the month on which the member first becomes eligible for the provision of telephone service under this subsection.

(4) USE OF EXISTING RESOURCES.—In carrying out this subsection, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, private organizations, or other private entities offering free or reduced-cost telecommunications services.

(5) COMMENCEMENT.—

(A) IN GENERAL.—This subsection shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

(B) EXPEDITED PROVISION OF ACCESS.—The Secretary shall commence the provision of access to telephone service under this subsection as soon as practicable after the date of the enactment of this Act.

(6) TERMINATION.—The Secretary shall cease the provision of access to telephone service under this subsection on the date this is 60 days after the later of—

(A) the date, as determined by the Secretary, on which Operation Enduring Freedom terminates; or

(B) the date, as so determined, on which Operation Iraqi Freedom terminates.

**SA 391.** Mr. OBAMA (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

OPERATIONS AND MAINTENANCE, GENERAL

For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, to repair damage caused by flooding in the Kaskaskia River during January, 2005, to the Lake Shelbyville and Carlyle Lake projects, \$5,400,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

**SA 392.** Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

EPILEPSY RESEARCH BY DEPARTMENT OF DEFENSE PEER REVIEWED MEDICAL RESEARCH PROGRAM

SEC. 1122. Of the amount appropriated or otherwise made available by this chapter under the heading “DEFENSE HEALTH PROGRAM”, \$1,000,000 shall be available for the Department of Defense Peer Reviewed Medical Research Program for epilepsy research, including—

(1) research into the relationship between traumatic brain injury and epilepsy; and

(2) research on the development of tools to monitor epilepsy.

**SA 393.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

“(h) DEFINITION.—In this section, the term ‘medical center’ includes any outpatient clinic.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if

included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108-422).

**SA 394.** Mr. WARNER submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

**RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS**

**SEC. 1122 (a)** In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

**SA 395.** Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify ter-

rorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE.**

It is the sense of the Senate that—

(1) the Senate conferees should not agree to the inclusion of language from division B of the Act (as passed by the House of Representatives on March 16, 2005) in the conference report;

(2) the language referred to in paragraph (1) is contained in H.R. 418, which was—

(A) passed by the House of Representatives on February 10, 2005; and

(B) referred to the Committee on the Judiciary of the Senate on February 17, 2005; and

(3) the Committee on the Judiciary is the appropriate committee to address this matter.

**SA 396.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ DEFINITION OF IMMEDIATE RELATIVES.**

Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "In the case of a parent of a citizen of the United States who has a child (as defined in section 101(b)(1)), the child shall be considered, for purposes of this subsection, to be an immediate relative if accompanying or following to join the parent." after "21 years of age."

**SA 397.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**SEC. 6047.** Section 426(d) of the Water Resources Development Act of 1999 (113 Stat. 326) is amended by striking "\$400,000" and inserting "\$475,000".

**SA 398.** Mr. DORGAN (for himself, Mr. DURBIN, Mr. LAUTENBERG, and Mr. HARKIN) submitted an amendment in-

tended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 6, add the following:

**TITLE VII—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING**

**SEC. 7001. FINDINGS.**

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly known as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

**SEC. 7002. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.**

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

**SEC. 7003. PURPOSE AND DUTIES.**

(a) **PURPOSE.**—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) **DUTIES.**—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

#### SEC. 7004. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Special Committee, or ½ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

#### SEC. 7005. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this resolution, the investiga-

tion, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

#### SEC. 7006. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) HEARINGS.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) MEETINGS.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

#### SEC. 7007. REPORTS.

(a) INITIAL REPORT.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 7003 not later than 270 days after the appointment of the Special Committee members.

(b) UPDATED REPORT.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) ADDITIONAL REPORTS.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 7003.

(e) DISPOSITION OF REPORTS.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to

the committee or committees that have jurisdiction over the subject matter of the report.

#### SEC. 7008. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) COMPENSATION.—

(1) MAJORITY STAFF.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) MINORITY STAFF.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) NONDESIGNATED STAFF.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

#### SEC. 7009. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

#### SEC. 7010. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

**SA 399.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists

from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. \_\_\_\_\_. (a) None of the funds appropriated or made available in this Act or any other Act may be used to fund the independent counsel investigation of Henry Cisneros after June 1, 2005.

(b) Not later than July 1, 2005, the Government Accountability Office shall provide the Committee on Appropriations of each House with a detailed accounting of the costs associated with the independent counsel investigation of Henry Cisneros.

**SA 400.** Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. COVERAGE OF MILK PRODUCTION UNDER H-2A NONIMMIGRANT WORKER PROGRAM.**

(a) IN GENERAL.—For purposes of the administration of the H-2A worker program in a year, work performed in the production of milk for commercial use for a period not to exceed 10 months shall qualify as agriculture labor or services of a seasonal nature.

(b) DEFINITIONS.—In this section:

(1) H-2A NONIMMIGRANT WORKER PROGRAM.—The term "H-2A nonimmigrant worker program" means the program for the admission to the United States of H-2A nonimmigrant workers.

(2) H-2A NONIMMIGRANT WORKERS.—The term "H-2A worker" means a nonimmigrant alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

**SA 401.** Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 193, line 23 of the bill, strike "\$500,000" and insert in lieu thereof: "\$1,000,000".

**SA 402.** Mr. COCHRAN (for Mr. MCCONNELL (for himself, Mr. LEAHY,

and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 192, line 19, after "March 2005," insert "and the avian influenza virus,".

**SA 403.** Mr. COCHRAN (for Mr. LUGAR (for himself and Mr. BIDEN)) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 171, line 13, strike "\$757,700,000" and insert "\$767,200,000".

On page 171, line 21, after "education:" insert the following "Provided further, That of the funds appropriated under this heading, \$17,200,000 should be made available for the Office of the Coordinator for Reconstruction and Stabilization:".

On page 179, line 24, strike "\$40,000,000" and insert "\$30,500,000".

**SA 404.** Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 7, delete "Aceh" and everything thereafter through "Service" on line 9, and insert in lieu thereof: tsunami affected countries

**SA 405.** Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 19, after the colon insert the following:

Provided further, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds:

**SA 406.** Mr. BAYH (for himself, Mr. PRYOR, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 170 between lines 14 and 15, insert the following:

CHAPTER 3

SEC. 1201. SHORT TITLE.

This chapter may be cited as the "Patriot Penalty Elimination Act of 2005".

SEC. 1202. INCOME PRESERVATION PAY FOR RESERVES SERVING ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12316 the following new section:

"§ 12316a. Reserves: income preservation pay

"(a) REQUIREMENT TO PAY.—The Secretary of the military department concerned shall pay income preservation pay under this section to an eligible member of a reserve component of the armed forces in connection with the member's active-duty service as described in subsection (b).

"(b) ELIGIBLE MEMBER.—A member is eligible for income preservation pay if—

"(1) in the case of a member who is an employee of the Federal Government—

"(A) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(B) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

"(C) with respect to such active-duty service, the amount of the member's preservice earned income determined under subparagraph (A) of subsection (c)(1) exceeds the amount of the member's military service income determined under subparagraph (B) of such subsection; or

"(2) in the case of any other member, the member—

"(A) meets the requirements of paragraph (1); and

"(B) is not receiving employment income preservation payments from the qualifying employer of the member as described in section 12316b of this title.

"(c) AMOUNT.—(1) Subject to paragraph (2), the amount payable under this section to a member in connection with active-duty service is the amount equal to the excess (if any) of—

"(A) the amount computed by multiplying—

"(i) the preservice average monthly earned income of the member, by

"(ii) the total number of the member's service months for such active-duty service, over

“(B) the amount computed by multiplying—

“(i) the military service average monthly income of the member, by

“(ii) the total number of months determined under subparagraph (A)(ii).

“(2) The total amount of income preservation pay that is paid to a member under this section may not exceed \$10,000.

“(d) PRESERVICE AVERAGE MONTHLY EARNED INCOME.—For the purposes of this section, the preservice average monthly earned income of a member who serves on active duty as described in subsection (b) shall be computed by dividing 12 into the total amount of the member's earned income for the 12 months immediately preceding the member's first service month of the period for which income preservation pay is to be paid to the member under this section.

“(e) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (b) is the amount determined by dividing—

“(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

“(2) the total number of such months.

“(f) TIME AND MANNER OF PAYMENT.—(1) Subject to paragraph (2), the total amount of income preservation pay that is payable under this section to a member in connection with service on active duty is due and payable, in one lump sum, not later than 30 days after the date on which the member is released from the active duty.

“(2) The Secretary concerned may make advance payment of income preservation pay in whole or in part under this section to a member, under such terms and conditions as the Secretary determines appropriate, if it is clear from the circumstances that it is likely that the member's active-duty service will satisfy the requirements of subsection (b). In any case in which advance payment is made to a member whose period of such active-duty service does not satisfy such requirements, the Secretary concerned may waive recoupment of the advance payment if the Secretary determines that recoupment would be against equity and good conscience or would be contrary to the best interests of the United States.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘earned income’ has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

“(2) The term ‘service month’, with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

“(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.”

(b) RECHARACTERIZATION OF EXISTING SECTION ON PAYMENT OF CERTAIN RESERVES ON ACTIVE DUTY.—The heading of section 12316 of title 10, United States Code, is amended to read as follows:

“**§ 12316. Reserves: payment of other entitlement instead of pay and allowances.**”

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, is amended by

striking the item relating to section 12316 and inserting the following new items:

“12316. Reserves: payment of other entitlement instead of pay and allowances.

“12316a. Reserves: income preservation pay.”

(d) EFFECTIVE DATE.—Section 12316a of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

**SEC. 1203. EMPLOYMENT INCOME PRESERVATION ASSISTANCE GRANTS FOR EMPLOYERS OF RESERVES.**

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, as amended by section 1202(a) of this chapter, is further amended by inserting after section 12316a the following new section:

“**§ 12316b. Reserves: employment income preservation assistance grants for employers of reserves**

“(a) REQUIREMENT TO MAKE GRANTS.—The Secretary of the military department concerned shall make a grant to each qualifying employer to assist such employer in making employment income preservation payments to a covered member of a reserve component of the armed forces who is an employee of such employer to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

“(b) QUALIFYING EMPLOYER.—(1) Except as provided in paragraph (2), for the purposes of this section, a qualifying employer is any employer who makes employment income preservation payments to a covered member to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

“(2) A State or local government is not a qualifying employer for the purpose of this section.

“(c) COVERED MEMBER.—For the purposes of this section, a member is a covered member if—

“(1) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

“(2) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; and

“(3) with respect to such active-duty service, the amount of the member's preservice average monthly wage or salary (as determined under subsection (e)) exceeds the amount of the member's military service average monthly income (as determined under subsection (f)).

“(d) EMPLOYMENT INCOME PRESERVATION PAYMENTS.—(1) For the purposes of this section, employment income preservation payments are any payments made by a qualifying employer to a covered member in connection with the active-duty service of the member described in subsection (c) in order to make up any excess of the member's preservice average monthly wage or salary over the member's military service average monthly income.

“(2) The total amount of employment income preservation payments with respect to a covered member for which a grant may be made under subsection (a) may not exceed \$10,000.

“(e) PRESERVICE AVERAGE MONTHLY WAGE OR SALARY.—For the purposes of this section, the preservice average monthly wage or salary of a covered member who serves on

active duty as described in subsection (c) shall be computed by dividing—

“(1) the number of months of employment of the member with the qualifying employer during the 12-month period preceding the member's commencement on active duty as described in subsection (c); into

“(2) the total amount of the member's wage or salary paid by the qualifying employer during such months.

“(f) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (c) is the amount determined by dividing—

“(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

“(2) the total number of such months.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘earned income’ has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

“(2) The term ‘service month’, with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

“(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, as amended by section 1202(c) of this chapter, is further by inserting after the item relating to section 12316a the following new item:

“12316b. Reserves: income preservation assistance grants for employers of reserves.”

(c) EFFECTIVE DATE.—Section 12316b of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

**SA 407.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 3 through 8 and insert the following:

AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

SEC. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior (referred to in this



section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than \$850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide—

(1) \$10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) \$5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

**SA 408.** Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used by the Secretary of Energy to provide assistance to any affected unit of local government under section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) using a funding distribution formula other than that used to provide assistance for fiscal year 2004.

**SA 409.** Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

**SEC. 6047. VOLUNTARY LEAVE TRANSFERS FOR FEDERAL EMPLOYEES WITH SPOUSES ON ACTIVE DUTY WITH THE NATIONAL GUARD OR RESERVES.**

(a) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by inserting after section 6340 the following:

**"§ 6341. National Guard and reserve service**

"(a) The Office of Personnel Management shall prescribe regulations to treat any period of service described under subsection (b) in the same manner and to the same extent as a period of a medical emergency.

"(b) The period of service referred to under subsection (a) is any period of service performed by the spouse of an employee while that spouse—

"(1) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10; and

"(2) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 5, United States Code, is amended by inserting after the item relating to section 6340 the following:

"6341. National Guard and reserve service."

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

any period of service (or portion of such period) described under section 6341(b) of title 5, United States Code (as added by this section) that begins on or after the date of enactment of this Act.

**SA 410.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

(e) The referenced statement of managers under the heading "Community Development Fund" in title II of division G of Public Law 108-199 is deemed to be amended with respect to item number 450 by striking the "V.I.C.T.M. Family Center in Washoe County, Nevada, for the construction of a facility for multi-purpose social services referral and victim counseling;" and inserting "Washoe County, Nevada, for a facility and equipment for the SART/CARES victim programs;".

**SA 411.** Mr. SESSIONS (for Mr. BAUCUS (for himself, Mr. GRASSLEY, Ms. LANDRIEU, Mr. LOTT, Mrs. FEINSTEIN, Mr. VITTER, Mr. NELSON of Florida, Mr. BOND, and Mr. MARTINEZ)) proposed an amendment to the bill H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; as follows:

Strike all after the enacting clause and insert the following:

**SEC. . . . PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.**

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

"(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

"(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

"(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

"(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

"(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle,

no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking “a qualified disaster relief payment” and inserting “qualified disaster relief payments and qualified disaster mitigation payments”.

(B) Subsection (e) of section 139 of such Code is amended by striking “and (f)” and inserting “, (f), and (g)”.

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.”.

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. 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 April 13, 2005, at 10 a.m., to conduct a hearing on “The Federal Home Loan Bank System.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 13 at 11:30 a.m. in room SD-366 to consider pending calendar business.

Agenda Item 1: To consider the nomination of David Garman, to be Under Secretary of Energy.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 13, 2005 at 9:15 a.m. to conduct a business meeting on the following agenda:

Nominations: Stephen Johnson, nominated by the President to be the Administrator of the United States Environmental Protection Agency (EPA); Luis Luna, nominated by the President to be EPA’s Assistant Administrator for Administration and Resource Manager; John Paul Woodley, Jr., nominated by the President to be Assistant Secretary of the Army for Civil Works; Major General Don Riley, United States Army, nominated by the President to be a Member and President of the Mississippi River Commission; Brigadier General William T. Grisoli, United States Army, nominated by the President to be a Member of the Mississippi River Commission; D. Michael Rappoport, nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation; and Michael Butler, nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation.

Resolution: A resolution authorizing alteration of the James L. King Federal Justice Building in Miami, Florida; and Committee resolution for the Calumet Harbor and River, Illinois.

Legislation: Water Resources Development Act of 2005.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 13, 2005, at 10 a.m., to hear testimony on “The U.S.-Central America-Dominican Republic Free Trade Agreement.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 13, 2005, at 9:30 a.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions meet in executive session during the session of the Senate on Wednesday, April 13, 2005, at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Com-

mittee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, April 13, 2005 at 11:00 a.m. to hold a business meeting to consider pending Committee business.

#### AGENDA

##### Legislation

S. 21, Homeland Security Grant Enhancement Act of 2005; S. 335, a bill to reauthorize the Congressional Award Act; S. 494, Federal Employee Protection of Disclosures Act; and S. 501, a bill to provide a site for the National Women’s History Museum in the District of Columbia.

##### Committee Reports

Report of the Permanent Subcommittee on Investigations, titled: “The Role of the Professional Firms in the U.S. Tax Shelter Industry”; and report of the Permanent Subcommittee on Investigations, titled: “Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling.”

THE PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON INDIAN AFFAIRS

Mr. COCHRAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 13, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Health.

THE PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet to conduct a hearing on Wednesday, April 13, 2005, at 9:30 a.m. on “Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use.” The hearing will take place in the Dirksen Senate Office Building Room 226.

##### Witness List

Panel I: Deborah Platt Majoras, Chairman, Federal Trade Commission, Washington, DC; Chris Swecker, Assistant Director for the Criminal Investigative Division, Federal Bureau of Investigation, Washington, DC; Larry D. Johnson, Special Agent in Charge, Criminal Investigative Division, U.S. Secret Service; Washington, DC; and William H. Sorrell, President, National Association of Attorneys General, Montpelier, VT.

Panel II: Douglas C. Curling, President, Chief Operating Officer and Director, ChoicePoint Inc., Alpharetta, GA; Kurt P. Sanford, President & CEO, U.S. Corporate & Federal Markets, LexisNexis Group, Miamisburg, OH; Jennifer T. Barrett, Chief Privacy Officer, Acxiom Corp., Little Rock, AR; James X. Dempsey, Executive Director, Center for Democracy & Technology, Washington, DC; and Robert Douglas, CEO, PrivacyToday.com, Steamboat Springs, CO.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 13, 2005, at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "Less Faith in Judicial Credit: Are Federal and State Marriage Protection Initiatives Vulnerable to Judicial Activism?" for Wednesday, April 13, 2005 at 2 p.m. in SD-226.

Witness List: Mr. Lynn Wardle, Professor of Law, Brigham Young University, J. Reuben Clark Law School, Provo, UT; Mr. Gerard Bradley, Professor of Law, University of Notre Dame Law School, Notre Dame, IN.; and Dr. Kathleen Moltz, Assistant Professor, Wayne State University School of Medicine, Detroit, MI.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on April 13, 2005, at 1:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs, in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on April 13, 2005, at 10 a.m., in open session to receive testimony on high risk areas in the management of the Department of Defense in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on S. 714—Junk Fax Prevention Act, on Wednesday, April 13, 2005, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. MURRAY. Mr. President, I ask unanimous consent that Linda

Jantzen, a Defense fellow in the office of Senator MIKULSKI, be granted floor privileges during the consideration of H.R. 1268, the emergency supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION LEGISLATION AND THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

Mr. SESSIONS. Mr. President, I am very troubled that on this Defense supplemental bill, designed to provide the resources necessary for our soldiers in the field to defend themselves and execute the policy of the United States of America against a hostile force, we are now moving into a prolonged and contentious debate over one of the issues that all of us must admit is critically divisive and contentious and important in our country; and that is, the immigration question.

As we all know, the 9/11 Commission made several recommendations involving security issues affecting this country, particularly in identification and better control over those who would come into our country, particularly those trying to come in illegally. That was debated in the intelligence bill. Then an agreement was reached. The House decided to put in that REAL ID language, designed to be consistent with the recommendations of the 9/11 Commission for security purposes—not an immigration bill, security bill language, their version of it. This Senate has not put any such language in the bill at this time.

I will say this. That is one thing. I, as a prosecutor, and somebody who has served on the Judiciary Committee—and we have wrestled with this for some time—have come to the very firm conclusion that the Sensenbrenner language is important for our security. We need to do something like this. We have waited too long, I believe. That is my view.

But now on this floor I am advised we are going to have the Mikulski immigration bill offered, and then we are going to have the Craig-Kennedy AgJOBS bill, which is a bill breathtaking in its scope, an absolute legislative approval of amnesty in an incredible scope, and absolutely contrary to the very generous but liberal position President Bush has taken with regard to immigration. That is going to be run through on this Defense supplemental, and we are going to have to vote on it.

The committees have not studied it. We have not looked at all the alternatives that might be considered or other legislation that I am interested in, such as legislation that would empower our local law enforcement to be better participants in this entire activity. All of that will be swept away, and we will come through with a bill where we give a million-plus people, who are here in our country illegally—they would be granted temporary resident status, by proving that they worked at

least 100 hours illegally. And then, if they worked 2,060 hours during a period of 6 years, they then are adjusted to legal permanent residents, what most people call green card holders, a status that is a guaranteed track or pass to citizenship, and they can bring their families with them.

This bill will take 1 million people, and it will put them on a guaranteed track to citizenship, people who have come here illegally.

Now, what about the people who have followed these H-1B, H-2B visa programs who have worked here legally? Can they get advantage of this track? Do they get put on a process by which they become citizens? No. It is only the people who are here illegally.

This is a bad principle. It is a matter of very serious import for law. I was a Federal prosecutor for 15 years. It hurts me to see the indifference by which our Nation has handled our legal system regarding immigration.

Should we allow more people to come here under legitimate conditions? Absolutely. I am for that, legally. I am prepared to discuss that. But I am not for a plan that guarantees amnesty for people who have come here illegally and not providing the benefits to those who may be talented, maybe have the skills we need right now, those who do not have connections to criminal or terrorist groups. We ought to be working on that angle of it.

I am a team player and I want to see things done right, in this Senate. I want to see our leadership succeed. I want to see good policy executed. But we are not going to take this issue lightly. I suggest that it would be an abdication of our responsibility as Senators if we allow this to be rammed through, attached to a bill, without the American people knowing what we are doing. They need to know this. It is going to take some time for them to learn what is being considered here. Senators need to learn what is in this bill. They don't know yet.

This AgJOBS bill had 60-something cosponsors last year. Now I understand it is down to 45. Why? People are reading this thing. It is bad law, bad policy. You tell me—this will be the second time we have passed an amnesty bill, if AgJOBS were to become law. Passing another amnesty bill would do nothing more than send the signal to those around the world who would like to come to the United States that the best way to become a citizen is to come in illegally and hang on; they will never do anything to you, and eventually there will be another amnesty out there? That is why we are concerned about it.

Yes, there are hardship cases. Yes, we want to be fair to everybody. We want to be more than fair. We want to be generous. But we have to be careful if we have any respect for law. Sometimes people think in this body—maybe they have never had to deal with it as I have—that laws don't have much import. They do. They are important. They make statements. A society

that cannot set rules and enforce those rules is not a healthy society. If you would like to know why America is the greatest, most productive, most free country in the history of the world, it is our commitment to the rule of law.

This process is undermining respect for law in a way that I have not seen before, maybe since Prohibition. I think we can improve immigration law. We can be generous with people and try to help them and their families and create something. But it is going to take a good while. It is going to take some hard work.

I for one am not going quietly on this bill. We are going to take time. We are going to have debate. We are going to delay this important defense supplemental bill now to go off on this tangent. But I hope and pray that somehow our leadership and those who are interested in these issues can find a way to put this off for now. Let this bill get passed.

Let's talk about this issue as part of a comprehensive debate. If we did that, we would be serving our constituents a lot better than what we are doing today.

If we go forward and we ram this through without the kind of hearings, debate, taking testimony, studying data, do all that kinds of stuff, our constituents are not going to be happy with us. As a matter of fact, I think they are going to rightly be upset with us. It is a tactic that should not be done on a matter of this importance.

I wanted to make that comment. I know at some point we will be moving forward with the bill. Hopefully the leadership can work with those who are interested in these issues and create a mechanism at some point in the future where it can be fully debated. I am not prepared to allow such a tremendously significant piece of legislation as the AgJOBS bill to go through without a full debate. Every minute that is available to this Senate to debate it should be put on it. The American people need to know what is happening on the floor of the Senate right now. Maybe when we have a vote, we will have the right outcome.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### INTERNAL REVENUE CODE OF 1986 AMENDED TO PROVIDE FOR PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1134 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant journal clerk read as follows:

A bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, today, we will pass legislation in the Senate that provides tax relief to all Americans receiving disaster mitigation grants from the Federal Emergency Management Agency, FEMA. I am pleased that my good friend, Senator GRASSLEY, and I, along with my colleagues, Senators LANDRIEU, BOND, FEINSTEIN, LOTT, MARTINEZ, NELSON, and VITTER could work together to add a necessary and important amendment to H.R. 1134, which exempts disaster mitigation payments from taxation.

For 15 years, FEMA has awarded natural disaster mitigation grants that assist citizens, businesses and communities to take steps to prevent or mitigate damages from future natural disasters. The grants go towards elevating buildings in floodplains, flood proofing, seismic reinforcement, acquisitions or relocations, wind protections for roofs and strengthening of window protections. These grants provide a long-term benefit to society by reducing future loss of life and increasing public safety. In addition to these life-saving benefits, mitigation grants also provide a net cost benefit to society. FEMA conducts a cost-benefit analysis prior to awarding a grant that ensures the cost of funding a project is less than the damages expected to occur in the event of a disaster. FEMA estimates that for every dollar spent on mitigation, an average of eight dollars is saved in the long run.

Let me take a minute to explain the history of the tax issue at hand. Prior to June of last year, recipients of FEMA mitigation grants generally excluded them from income. The tax code states clearly that post-disaster grants were not taxable. But the tax code doesn't specifically describe the tax treatment of mitigation grants. FEMA assumed mitigation grants were treated the same as post-disaster relief grants. However, on June 28, 2004, the Internal Revenue Service issued a legal memorandum stating these mitigation grants were taxable as income. That means that someone who took advantage of mitigation opportunities to prevent future losses would face a significant tax liability. The average mitigation grant is \$83,000. That means the average tax on a grant is tens of thousands of dollars. That isn't fair. It was never intended that taxes be collected under these mitigation programs, but under the legal memorandum issued by the Internal Revenue Service thousands of taxpayers may have to file amended tax returns and pay additional tax. Moreover, the Federal Gov-

ernment changed the rules and never made the recipients aware of the potential tax consequences.

I compliment the House for taking up this issue and passing legislation that helps taxpayers who receive mitigation grants after the date of enactment. However, there is a flaw in the House bill. The bill clearly provides tax relief to "amounts received after the date of enactment." What about taxpayers who received mitigation grants in 2004 or 2003 and before? The chairman of the Finance Committee and I have added an amendment that provides absolute certainty for all taxpayers who received grants in past years. Some have argued that the Department of the Treasury can provide tax relief for those who received grants prior to the date of enactment by using the intent gleaned from floor statements and letters from Members of Congress. Let me be clear, Congress writes laws and the clearest intent is in the letter of the law. If our intent is to provide tax relief for those who received grants before the date of enactment, we should write it into the law. And that is what the amendment my good friend Senator GRASSLEY and I have offered.

Before I finish, I want to thank Senators LANDRIEU, NELSON and FEINSTEIN for their tireless work. I can tell you firsthand there was a significant amount of pressure to pass this bill as it was sent from the House. We all wanted to pass this bill as quickly as possible, but we also wanted to be sure we got it right the first time. This bill does that.

I sincerely hope the House will do the right thing and pass this bill with the Senate amendment before the tax filing deadline on Friday.

Ms. LANDRIEU. Mr. President, last year the Internal Revenue Service hit my State like a Category 4 hurricane when it determined that disaster mitigation benefits from the Federal Emergency Management Agency are taxable. We get hurricane warnings when a storm is coming, we can track their paths as they come out of the Caribbean and into the Gulf of Mexico. We didn't get any kind of "tax warning" from the IRS, but the financial toll on many of my constituents was devastating.

Let me explain what happened. In June of last year, the IRS chief counsel issued an advice letter that determined that FEMA disaster mitigation benefits were taxable as a matter of law. This ruling applied to a variety mitigation grant programs, covering a wide range of natural disasters. The main disasters that concern us in Louisiana are hurricanes and flooding. They are as much a part of life as crawfish boils and Mardi Gras. The key to our peace of mind is the National Flood Insurance program administered by FEMA. In Louisiana, 377,000 property owners participate in the National Flood Insurance program. It is a real Godsend to the people of my state.

The National Flood Insurance program also provides funding for property owners to flood-proof their homes through the flood mitigation grant program. FEMA distributes these grant funds to the States which then pass them along to local communities. The local communities select properties for mitigation and contract for the mitigation services. Communities use these funds to put homes on stilts, improve drainage on property, and to acquire flood proofing materials. These mitigation grants encourage property owners to take responsible steps to lessen the potential for loss of life and property damage due to future flooding. The grants also have the added benefit of saving money in the long term for the flood insurance program.

But the IRS has turned this valuable disaster preparedness and prevention program into a financial disaster for responsible property owners by making these payments taxable. This tax is unfair, unexpected, and an unfortunate policy decision—unfair and unexpected because no one told my constituents that they would be taxed for accepting FEMA disaster mitigation assistance. The local officials in their parish were just as surprised. This tax is unfortunate policy because in the long term, the IRS will undercut the effectiveness of using mitigation as a means of decreasing future costs to the flood insurance program. It will force people to take risks that they will not be hit by a disaster.

I was pleased that the House of Representatives passed a bill, H.R. 1134, to correct this problem. It says that going forward, disaster mitigation benefits are not taxable. But this legislation is not retroactive. It offers no relief to people who are facing a huge tax bill this Friday, April 15, for mitigation funding received in 2004 or earlier years. Virtually every constituent who has written or called my office about this issue received their grant in 2004. This bill will do nothing for them.

I understand that the sponsors of H.R. 1134 and its Senate version S. 586 claim that once it has been passed, the Department of the Treasury will issue some sort of notice to IRS field personnel essentially making the effect of this bill retroactive. Treasury officials, however, cannot cite a legal justification for issuing such a notice. They claim that they can rely on the floor statements of the chairs and ranking members of the House Ways and Means Committee and the Senate Finance Committee as a basis for issuing the notice.

Mr. President, we cannot legislate on a wink and a nod. The right way to make this relief retroactive is to pass the Baucus-Grassley amendment to H.R. 1134 and send it back to the House. This amendment will extend the tax relief in this bill to all recipients of FEMA disaster mitigation assistance past, present, and future. I am proud to be a cosponsor of the amendment. I thank the chairman and ranking mem-

ber of the Finance Committee for their leadership in bringing this matter to the floor.

April 15th is 2 days away. I urge the other body to take up and pass H.R. 1134 as amended by the Senate, and send it to the President for his signature. This bill will bring peace of mind to thousands of responsible property owners who face an unfair tax burden. We should not allow April 15th to pass without giving these people relief.

Mr. SESSIONS. Mr. President, there is a substitute amendment at the desk. I ask that the amendment be considered and agreed to; the motion to reconsider be laid upon the table; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 411) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

**SEC. —. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.**

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

“(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

“(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

“(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster mitigation payment’ means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

“(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

“(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking “a qualified disaster relief payment” and inserting “qualified disaster relief payments and qualified disaster mitigation payments”.

(B) Subsection (e) of section 139 of such Code is amended by striking “and (f)” and inserting “, (f), and (g)”.

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to invol-

untary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.”.

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

The bill (H.R. 1134), as amended, was read the third time and passed.

**CONGRATULATING UNIVERSITY OF DENVER PIONEERS MEN'S HOCKEY TEAM**

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 106 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant journal clerk read as follows:

A resolution (S. Res. 106) congratulating the University of Denver Pioneers men's hockey team, 2005 National Collegiate Athletic Association Division I Hockey Champions.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLARD. Mr. President, I rise today for the second year in a row to recognize the recent achievement of the University of Denver Hockey Team. On April 9, 2005, almost a year to the day that they won the 2004 Men's NCAA Division I Championship on the frigid ice of a Boston arena, the Pioneers repeated their amazing feat capturing a second national title in Columbus, OH at this year's Frozen Four. On this particular evening the University of Denver Pioneers defeated the North Dakota Fighting Sioux by a score of 4-1, clinching a seventh overall hockey championship.

At the helm of the University of Denver hockey team for the last 11 years has been coach George Gwozdecky. Coach Gwozdecky came to DU in 1994 and has compiled an impressive record at DU, including his 400th win as a coach a few short weeks ago and his 405th win in the national title game. Coach Gwozdecky has shaped the Pioneer program into one of the elite programs in all of collegiate sports, and he is the only NCAA coach to win a national hockey title as a player, assistant coach, and head coach.

Later today the University of Denver campus will host a rally in honor of the Pioneer hockey champions. While I regret that I can not be there in person to commend this fantastic team, I would like to honor just a few of the great players that made this repeat championship possible. Freshman Peter Mannino, named the Most Outstanding Player of this year's Frozen Four, made an astonishing 44 saves in the championship game including a 23 shot barrage in the third period. Forward Paul Stastny scored two of the Pioneer's four goals with Jeff Drummond and Gabe Gauthier each adding one. Five Pioneers, Forwards Gauthier and Stastny, Defensemen Matt Carle and Brett Skinner, and goalie Mannino were named to the All-Tournament Team.

Today I share my congratulations with the entire University of Denver community. Winning a national title is a rare and precious accomplishment. Winning two championships in a row is all the more rare. This achievement reflects the hard work and dedication of many people. Congratulations to all the DU Pioneers. Congratulations to Chancellor Daniel Ritchie, Provost Bob Coombe, President Mark Holtzman, Interim Director of Athletics Stuart Halsall, Coach Gwozdecky and his staff, and especially the Pioneer players, students and fans. You have made us all very proud.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 106) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 106

Whereas the Denver Pioneers first won the National Collegiate Athletic Association (NCAA) Hockey Championship in 1958;

Whereas the University of Denver has won 7 NCAA Division I Men's Hockey Championships, including back-to-back championships in 2004 and 2005;

Whereas on April 9, 2005, the University of Denver won the Frozen Four with a hard fought victory over the University of North Dakota Fighting Sioux; and

Whereas the Championship ended a terrific season in which the University of Denver outscored its opponents 170 to 109 and had a record of 31-9-2: Now, therefore, be it

*Resolved*, That the Senate congratulates the University of Denver Pioneers men's hockey team, Coach George Gwozdecky, and Chancellor Daniel Ritchie on an outstanding championship season, a season which solidifies the Pioneers' status among the elite in collegiate hockey.

EXECUTIVE SESSION

NOMINATION OF MICHAEL D. GRIFFIN TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. SESSIONS. Mr. President, as in executive session, I ask unanimous consent that the Commerce Committee be discharged from further consideration of Michael Griffin to be the Administrator of NASA, and that the Senate proceed to executive session for its consideration. I finally ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements be printed in the RECORD, the President then be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

Mr. STEVENS. Mr. President, the National Aeronautics and Space Administration represents our Nation's greatest hopes and aspirations. President Bush nominated Dr. Michael D. Griffin to be the next NASA Administrator on March 14, 2005. Dr. Griffin takes over an agency that is embarking on the President's Vision for Space Exploration, which will take America back to the moon and eventually to Mars. The Vision is NASA's biggest mission since the Apollo program began more than 40 years ago. Dr. Griffin will guide NASA on the first steps of this important journey that will define America's presence in space for the next several decades. At the same time, we still mourn the loss of the *Columbia's* crew as NASA readies the Space Shuttle for its return to flight next month. Dr. Griffin's first task will be to ensure that the shuttle program gets back on its feet safely and effectively. NASA needs its next Administrator immediately, and I thank the Senate for agreeing to the request from Senator INOUE and myself to discharge and approve this nomination.

Dr. Griffin's extensive background in space and science will serve him and NASA well. He is currently head of the Space Department at the Johns Hopkins University Applied Physics Laboratory. Previously, Dr. Griffin was President and Chief Operating Officer of In-Q-Tel, an independent, nonprofit venture group chartered to identify and invest in cutting-edge commercial technologies for intelligence community applications. He has also served as CEO of the Magellan Systems Division of Orbital Sciences Corporation, as General Manager of Orbital's Space Systems Group, and as the company's Executive Vice President/Chief Technical Officer. Prior to joining Orbital,

he was Senior Vice President for Program Development at Space Industries International, and General Manager of the Space Industries Division in Houston.

Dr. Griffin has served in a number of Governmental positions. With NASA, he served as both the Chief Engineer and the Associate Administrator for Exploration, and within the Department of Defense—DOD—he served as the Deputy for Technology at the Strategic Defense Initiative Organization—SDIO. Before joining SDIO, Dr. Griffin played a leading role in numerous space missions while employed at the Johns Hopkins APL, the Jet Propulsion Laboratory, and Computer Sciences Corporation. He holds seven degrees in the fields of physics, electrical engineering, aerospace engineering, civil engineering, and business administration, and has been an Adjunct Professor at the George Washington University, the Johns Hopkins University, and the University of Maryland. He is the lead author on more than two dozen technical papers and the textbook *Space Vehicle Design*. He is a recipient of the NASA Exceptional Achievement Medal and the DOD Distinguished Public Service Medal. He is also a Registered Professional Engineer in Maryland and California, and a Certified Flight Instructor with instrument and multi-engine ratings.

Dr. Griffin succeeds a close friend and former leader of my staff, Sean O'Keefe. Sean did an admirable job getting the agency's finances under control and, more importantly, holding NASA together after the *Columbia* tragedy. We were lucky NASA had such a leader during that trying time. At the Commerce Committee's hearing on Dr. Griffin's nomination I spoke of my recent travels with Sean, during which I was approached repeatedly by people who raved about Dr. Griffin. They all said he was the man for the job if he could be convinced to accept it. I am pleased the President appointed Dr. Griffin and I look forward to working closely with him and his team of talented professionals.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, APRIL 14, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, April 14. 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 begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic

leader or his designee and the second 30 minutes under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.



PROGRAM

Mr. SESSIONS. Tomorrow morning, following morning business, the Senate will resume consideration of the Iraq-Afghanistan supplemental. We were able to make good progress on the bill today, and we look forward to another productive day tomorrow. Currently we have three amendments pending and we are working with the Democratic leadership to move forward with these amendments. Therefore, Senators should expect rollcall votes throughout the day tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:11 p.m., adjourned until Thursday, April 14, 2005, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate April 13, 2005:

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT J. PORTMAN, OF OHIO, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE ROBERT B. ZOELLICK, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate Wednesday, April 13, 2005:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

MICHAEL D. GRIFFIN, OF VIRGINIA, TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

DISCHARGED NOMINATIONS

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

\*Howard J. Krongard, of New Jersey, to be Inspector General, Department of State.

\*Daniel R. Levinson, of Maryland, to be Inspector General, Department of Health and Human Services.

The Senate Committee on Commerce, Science, and Transportation was discharged from further consideration of the following nomination and the nomination was confirmed:

Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

\*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

## EXTENSIONS OF REMARKS

HONORING THE EXEMPLARY WORK  
OF LENA F. BLALOCK

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor Judge Lena F. Blalock of Pleasanton, Texas for her dedication and commitment to community service.

Judge Lena Blalock has made the people of her district proud, by tirelessly dedicating her time to the Municipal Court for 25 years. Judge Blalock, originally from Silvertown, Texas, has been the presiding Judge of the Pleasanton Municipal Court since 1985 and works day after day for the betterment of the Pleasanton community.

By working as a nurse during World War II, working for the police department as a dispatcher, and setting up a business in Pleasanton specializing in TV and radio equipment, Judge Blalock has lived an outstanding life of service to the Country and the community.

Judge Blalock has also been a member of the Church of Christ since 1946, and enjoys traveling, photography and crocheting. In her spare time, she also enjoys visiting senior citizens camps in the fall and spring.

Judge Blalock has demonstrated great dedication to community service and I am honored to recognize her accomplishments here today.

INTRODUCTION OF THE AQUATIC  
INVASIVE SPECIES RESEARCH ACT

**HON. VERNON J. EHLERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. EHLERS. Mr. Speaker, I am pleased to introduce today a bill that is a critical component in our efforts to combat aquatic invasive species—the Aquatic Invasive Species Research Act. This legislation is similar to legislation that was reported out of the House Science Committee in the 108th Congress. It creates a comprehensive research program that supports federal, state and local efforts to prevent invasive species from ever entering our waterways, as well as detection, control and eradication efforts once they are here. It complements a bill introduced today by Mr. GILCREST in the House and Senators COLLINS and LEVIN in the Senate to reauthorize the National Invasive Species Act. This legislation is a critical component in our battle against these harmful and extremely damaging pests.

In undertaking this effort, I have found that many people wonder—“What is an invasive species? Why it is so crucial to keep them out of United States?” It is important that we understand these questions so that we can appreciate the scope of the threat that invasive species pose to our economy and environment.

The introduction of non-native species is not new to the United States. People have

brought non-native plants and animals into the United States, both intentionally and unintentionally, for a variety of reasons, since the New World was discovered. Some examples include the introduction of nutria (which is a rodent similar to a muskrat) by trappers to bolster the domestic fur industry, and the introduction of the purple loosestrife plant to add rich color to gardens. Both nutria and purple loosestrife are now serious threats to wetlands. Non-native species may also be introduced unintentionally, such as through species hitching rides in ships, crates, planes, or soil coming into the United States. For example, zebra mussels, first discovered in Lake St. Clair near Detroit in the late 1980s, came into the Great Lakes through ballast water from ships.

Not all species brought into the country are harmful to local economies, people and/or the environment. In fact, most non-native species do not survive because the environment does not meet their biological needs. In many cases, however, the new species will find favorable conditions (such as a lack of natural enemies or an environment that fosters propagation) that allow it to survive and thrive in a new ecosystem.

Only a small fraction of these non-native species become an “invasive species”—defined as a species that is both non-native to the ecosystem and whose introduction causes or may cause economic or environmental harm or harm to human health. However, this small fraction can cause enormous damage, both to our economy and our environment.

The economic damage includes the cost of control, damage to property values, health costs and other factors. Just one species can cost government and private citizens billions of dollars. For example, zebra mussels have cost the various entities in the Great Lakes basin an estimated \$3 billion during the past 10 years for cleaning water intake pipes, purchasing filtration equipment, and so forth. Sea lamprey control measures in the Great Lakes cost approximately \$10 million to \$15 million annually; and, on top of these expenses, there is the cost of lost fisheries due to this invader. In fact, invasive species now are second only to habitat loss as threats to endangered species.

Given the enormous economic and environmental impacts these invaders cause, two clear goals emerge: First, we need to focus more resources and energy into dealing with this problem at all levels of government; second, our best strategy for dealing with invasive species is to focus these resources to prevent them from ever entering the United States. Spending millions of dollars to prevent species introductions will save billions of dollars in control, eradication and restoration efforts once the species become established. In fact, one theme is central to both Mr. GILCREST’s bill and this legislation. It is an old adage, but one worth following—“An ounce of prevention is worth a pound of cure.”

To successfully carry out this strategy, we need careful, concerted management of this problem, supported by research at every step. For example, we know that we must do more

to regulate the pathways by which these invaders enter the United States (ships, aquaculture, etc.), which is an important component of Mr. GILCREST’s legislation. However, research must inform us as to which of these pathways pose the greatest threat and which techniques used to manage each pathway are effective. This legislation would help develop this understanding through the ecological and pathway surveys conducted under the bill. In fact, research underlies every management decision aimed at detecting, preventing, controlling and eradicating invasive species; educating citizens and stakeholders; and ensuring that resources are optimally deployed to increase the effectiveness of government programs. These items are also reflected in the legislation, which I will now describe in more detail.

The bill is divided into six main parts. The first three parts outline an ecological and pathway research program, combining surveys and experimentation, to be established by the National Oceanic and Atmospheric Administration, the Smithsonian Environmental Research Center and the United States Geological Survey. This program is focused on understanding what invasive species are present in our waterways, which pathways they use to enter our waterways, how they establish themselves once they are here and whether or not invasions are getting better or worse based on decisions to regulate pathways. In carrying out this program, the three principal agencies will develop standardized protocols for carrying out the ecological and pathway surveys that are called for under the legislation. In addition, they will coordinate their efforts to establish longterm surveys sites so we have strong baseline information. This program also includes an important grant program so that academic researchers and state agencies can carry out the surveys at diverse sites distributed geographically around the country. This will give federal, state and local managers a more holistic view of the rates and patterns of invasions of aquatic invasive species into the United States. Lastly, the principal agencies will coordinate their efforts and pull all of this information together and analyze it to help determine whether or not decisions to manage these pathways are effective. This will inform policymakers as to which pathways pose the greatest threat and whether or not they need to change the way these pathways are managed.

The fourth part of the bill contains two programs to develop, demonstrate and verify technologies to prevent, control and eradicate invasive species. The first is an Environmental Protection Agency grant program focused on developing, demonstrating and verifying environmentally sound technologies to control and eradicate aquatic invasive species. This research program will give federal, state and local managers more tools to combat invasive

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



species that are also environmentally sound. The second is expansion both in terms of scope and funding of a National Oceanic and Atmospheric Administration and Fish and Wildlife Service program geared toward demonstrating technologies that prevent invasive species from being introduced by ships. This is the federal government's only program that is focused solely on helping develop viable technologies to treat ballast water. It has been woefully underfunded in the past and deserves more attention.

The fifth part of the bill focuses on setting up research to directly support the Coast Guard's efforts to set standards for the treatment of ships with respect to preventing them from introducing invasive species. Ships are a major pathway by which invasive species are unintentionally introduced; the ballast water discharged by ships is of particular concern. One of the key issues that has hampered efforts to deal with the threats that ships pose is the lack of standards for how ballast water must be treated when it is discharged. The Coast Guard has had a very difficult time developing these standards since the underlying law that support their efforts (the National Invasive Species Act) did not contain a research component to support their work. This legislation provides that missing piece.

Finally, the sixth and final part supports our ability to identify invaders once they arrive. Over the past couple of decades, the number of scientists working in systematics and taxonomy, expertise that is fundamental to identifying species, has decreased steadily. In order to address this problem, the legislation sets up a National Science Foundation program to give grants for academic research in systematics and taxonomy with the goal of maintaining U.S. expertise in these disciplines.

Taken together, both my bill and Mr. GILCHREST's bill represent an important step forward in our efforts to prevent invasive species from ever crossing our borders and combat them once they are arrive. New invaders are arriving in the United States each day, bringing with them even more burden on taxpayers and the environment. We simply cannot afford to wait any longer to deal with this problem, and so I urge all of my colleagues to support this legislation.

HONORING RABBI MICHAEL  
ROBINSON OF SONOMA COUNTY

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Rabbi Michael Robinson of Sonoma County who has dedicated his life to the cause of social justice at home and around the world. From the American civil rights movement to the Nicaraguan Contra war to the Israel-Palestinian conflict Rabbi Robinson has been on the front lines promoting peace and the improvement of humanity. On April 14 he is being presented with the Jack Green Civil Liberties Award by the ACLU of Sonoma County for his lifetime of achievements in this arena. Nobody deserves this honor more than Michael Robinson.

Born in North Carolina, Robinson received his B.A. from the University of Cincinnati and

attended North Carolina State College before enlisting in the Navy during World War II. He served in the Pacific and became a pacifist immediately after this experience.

In 1952, after completing a course of study at Hebrew Union College in Cincinnati, Robinson became the first North Carolina native to be ordained as a rabbi. He later earned his doctoral degree from the New York Theological Seminary and served in temples in Seattle and Pomona as well as 29 years as an activist leader at Temple Israel in Westchester, New York. During the civil rights movement, the synagogue raised money to help rebuild the black churches that had been burned in the South and finance the van used by the Freedom Riders to tour the South. Rabbi Robinson marched with Martin Luther King Jr. in Selma, and expressed his convictions in these words: "When I was 10 years old I began sitting on the back seat of the bus with 'colored people.' I never returned to the front seat."

After moving to Sonoma County with his wife Ruth, Rabbi Robinson served Shomrei Torah and is credited with growing the congregation from 30 families to now the largest Jewish congregation in Santa Rosa. Retired since 1996, Rabbi Robinson holds the title of Rabbi Emeritus at both Temple Israel and Shomrei Torah.

In addition to promoting affirmative action, same sex marriage, affordable housing, and other equality issues, Robinson has worked against nuclear war, apartheid, and all forms of injustice. He is known locally for his involvement in the Sonoma County Task Force on Homelessness, Children's Village, the Living Wage Coalition, Habitat for Humanity, the Sonoma County Peace and Justice Center, and the Sonoma Land Trust.

A founding member of Angry White Guys for Affirmative Action in 1996, Rabbi Robinson's words still resonate: "I hope that my anger will not dissipate until justice is done and every man, woman and child has equal access to all the privileges of a democratic society and receives equal respect."

Mr. Speaker, I share that passion and also Rabbi Robinson's hope that we as a Nation can become better people and create a just society. Michael Robinson is a model for all of us—from the ACLU of Sonoma County to those in distant lands who strive for basic rights. His words as well as his deeds are an inspiration that none who have come into contact with him will ever forget.

THANKING MR. WAYNE MYERS  
FOR HIS SERVICE TO THE HOUSE

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. NEY. Mr. Speaker, on the occasion of his retirement in March 2005, we rise to thank Mr. Wayne Myers for 31 years of outstanding service to the United States government, with the majority of it here in the U.S. House of Representatives.

Wayne began his government career in 1967 as a soldier in the U.S. Army where he was trained as a combat radio repairman and served a tour of duty in South Vietnam. Upon being honorably discharged in 1970, he con-

tinued his education in the electronics field. After 4 years, Wayne became a technician at the National Air and Space Museum and later transferred to the National Gallery of Art. In 1979 he joined the engineering staff of the House Recording Studio as it began the historic television coverage of House floor proceedings. For the past 25 years Wayne Myers has led by his quiet dependable example. He has been a selfless team player. His faith has given him the inner peace to work through the most tenuous times without complaint while still maintaining a great sense of humor.

On behalf of the entire House community, we extend congratulations to Wayne for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish him many wonderful years in fulfilling his retirement dreams.

IN HONOR OF GAY, LESBIAN,  
STRAIGHT ALLIANCES AND THE  
NATIONAL DAY OF SILENCE

**HON. JERROLD NADLER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. NADLER. Mr. Speaker, I rise today to join hundreds of thousands of young people across the Nation to "break the silence" surrounding the scourge of anti-gay bullying and harassment in our schools. In more than 4,000 schools in all 50 states and Puerto Rico, students have taken a day-long vow of silence to peacefully and poignantly draw attention to the abuse routinely faced by their lesbian, gay, bisexual, and transgender (LGBT) classmates. Over 450,000 students are expected to participate in this year's National Day of Silence.

This ever-growing, student-led effort, co-sponsored by the Gay, Lesbian, and Straight Education Network (GLSEN) and the United States Student Association, is a clarion call to parents, teachers, and school administrators to help end the all too common practice of dismissing or discounting student-on-student harassment. It is increasingly clear that young people of conscience will not sit idly by as their LGBT friends or classmates are preyed upon by bullies and bigots. They will stand up and speak out against such bigotry and intolerance, even if the adults in their lives will not.

We have all heard the saying, "sticks and stones may break my bones, but names will never hurt me," which has been used for generations by countless children to fend off verbal attacks from their peers. Unfortunately, the notion that such verbal bullying or harassment is a "normal" and unavoidable part of growing up remains a widely accepted attitude amongst school administrators and teachers in this country. Too often, adults tend to dismiss or even romanticize schoolyard bullying as some sort of coming of age ritual or an inevitable "right of passage." Today, I join with the growing chorus of voices, including informed educators, children's rights advocates and students, who reject such anachronistic, survival-of-the-fittest thinking.

The uncomfortable truth is that "names" and labels can indeed hurt. For sensitive or vulnerable young people—particularly LGBT youth who are already struggling with their sexuality in a cultural and social context that often is overwhelmingly hostile to it—such verbal

abuse, and the social and emotional isolation that often accompanies it, can leave lasting emotional scars.

And too many schools have a culture that fosters and sustains a hostile environment for these youth. Surveys indicate that the average high school student hears 25 anti-gay slurs daily; 97 percent of high school students regularly hear homophobic remarks. Even more alarming are the results of GLSEN's most recent National School Climate Survey, which found that 84 percent of LGBT students had suffered some form of abuse and 82.9 percent of these reported that adults never or rarely intervened when present. It is unsurprising that such a pervasive atmosphere of harassment takes its toll. LGBT students are far more likely to skip classes, drop out of school and, most disturbingly, attempt suicide.

According to numerous studies, LGBT teens are 2 to 3 times more likely to attempt suicide. Such statistics are a sobering reminder that we must redouble our efforts to provide our children with safe and secure learning environments. No student should be harassed or attacked simply because they are perceived as different, or because they have had the courage to openly acknowledge their sexual orientation.

Through their actions, the student organizers and participants of the Day of Silence set an example for their peers and their elders alike. Their silence has spoken volumes about the need for us to recognize the corrosive climate of fear and intimidation that any kind of bullying creates. Our schools should be havens for learning and personal growth, not arenas for conflict and harassment. For their courage, their compassion, and their tenacity, I honor all those who took this vow of silence today.

TRIBUTE TO DR. SHIRLEY JACKSON, PRESIDENT OF RENSSELAER POLYTECHNIC INSTITUTE

**HON. JOHN W. OLVER**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. OLVER. Mr. Speaker, I rise today to recognize the educational leadership of Dr. Shirley Jackson. As university president, Dr. Jackson has helped shape Rensselaer Polytechnic Institute, RPI, into one of the premier technological universities in the world.

A key aspect of Dr. Jackson's effort was the establishment of the "Rensselaer Plan," a collaborative roadmap joining together faculty, staff, students and alumni in an effort to make RPI an academic mecca within the Northeast region. During her tenure, she has increased the level of educational services the university can provide students in part by securing a \$360 million unrestricted gift to RPI, one of the largest single gifts ever given to an American university, and by doubling annual fundraising in the last 3 years.

The influx of new financial resources during Dr. Jackson's tenure has spurred the new construction of state-of-the-art research facilities, including the Center for Biotechnology and Interdisciplinary Studies and the Experimental Media and Performing Arts Center. These construction projects have cor-

responded with increases in National Institute of Health, NIH, research funding from \$400,000 in 1999 to \$30 million in 2004. These increases have allowed the university to hire over 100 new faculty members and expand research activities. Students benefit from these first class facilities and improved student-to-faculty ratio while having the opportunity to be involved in cutting edge research.

Again, I commend Dr. Shirley Jackson for her remarkable accomplishments in keeping RPI, my alma mater, a top-tier technological university.

HONORING THE CONTRIBUTIONS OF PEARSALL CITY COUNCILMAN CONRAD CARRASCO, JR.

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the distinguished public service of Pearsall City Councilman Conrad D. Carrasco, Jr.

Conrad Carrasco has long been an established part of Frio County's legal community. He entered public service in 1980, and served as Justice of the Peace for Precinct No. 3 through 1990. The Justice of the Peace is the judicial officer who works most closely with average citizens, and Mr. Carrasco's duties included the issuance of warrants and the settlement of small claims disputes between citizens. In this role, as in his other roles, Conrad Carrasco served the people of Frio County with distinction.

He was elected to the City Council of Pearsall in May, 2000. Mr. Carrasco has worked while on the council to safeguard Frio County's natural beauty and to ensure that the city is run in an accountable and effective manner. He serves in Place No. 3 on the Council, for a term that extends through May 2006.

Finally, he has distinguished himself as a businessman. He has been employed with KBJ's Loan Company since 1995, and continues to be a valuable part of his community's financial sector.

Conrad Carrasco has accumulated an impressive record of success in business and service to the people of Frio County. He is an important resource for his community, and I am proud to have had this opportunity to thank him.

INTRODUCTION OF THE NATIONAL INVASIVE SPECIES COUNCIL ACT

**HON. VERNON J. EHLERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. EHLERS. Mr. Speaker, today I am introducing legislation to codify the Executive Order that established the Invasive Species Council and gave the Council responsibility for coordinating all invasive species activities across the federal government (Executive Order #13112, issued in February 1999). Invasive species, such as the snakehead fish and zebra mussel, cause an enormous eco-

nomc, ecological and human health toll on the United States every year. There are over 20 different federal agencies involved in prevention, eradication, control, monitoring, research and outreach efforts to deal with the threat of invasive species, and this Executive effort seeks to make these efforts more coordinated, effective and cost-efficient. Better management of invasive species efforts across federal agencies is critical to an effective response to this threat, and the Executive Order was the right first step. However, it is only the first step. Congress now needs to pass this legislation to give the Council more authority to effectively meet this threat.

Since its inception, the Council has made progress in achieving its mandate. In particular, in January 2001 the Council issued the National Management Plan to provide a general blueprint of goals and actions for federal agencies to better deal with invasive species. While this broad plan lacks detail in some areas, it helps focus the various federal efforts on common goals and coordinated actions. In addition, the Council established a federal advisory committee consisting of 32 members from a broad array of stakeholders. The advisory committee has met several times in order to provide guidance on the development of the National Management Plan and on federal agency actions regarding invasive species in general.

While the Council has had some success, its authority to coordinate the actions of federal agencies has been limited. The Government Accountability Office (GAO) has recognized this problem, reporting that agencies did not incorporate the components of the National Management Plan into their annual performance plans. In addition, the GAO recommended that the Council study whether or not a lack of legislative authority has hampered its mission. Key agencies of the Council have already recognized this lack of authority as problematic and have supported codification of the Council in testimony before a November 2002 joint hearing of the House Resources and House Science Committees on aquatic invasive species.

The legislation I am introducing today essentially keeps the existing structure of the Council intact, while at the same time it addresses issues raised by the GAO by giving the Council a clear statutory mandate.

First, the legislation maintains the Executive Order's statement of administration policy that federal agencies should not undertake actions that may lead to the introduction or further spread of invasive species without careful consideration of the costs that the proposed action may cause. The legislation requires that the Council on Environmental Quality, in conjunction with the Council, issue guidelines for federal agencies to help them consider the consequences of any proposed action. The intent of this provision is to create a common set of guidelines by which all federal agencies can measure their actions, not to give individuals a private right of action against government agencies that take actions regarding invasive species.

Second, the legislation makes some modifications to the existing institutional structure of the Council. The membership of the Council will remain the same; however the legislation updates the membership, as described by the Executive Order, to reflect additional agencies that have been added since 1999. It also

makes the Council an independent entity within the Executive Branch, to be chaired on a rotating basis by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. This is a change from the Executive Order, which called for the Council to be housed within the Department of the Interior and chaired by that agency. If the Council is to be a truly independent entity that can work with all federal agencies, this change is necessary.

Third, the legislation retains the duties of the Council as described by the Executive Order (including development of an updated National Management Plan), but it adds some new duties in order to give the Council more tools to use in coordinating federal programs. In particular, the Council must submit an annual list of the top priorities in several different areas related to addressing the threat posed by invasive species. The legislation also specifically calls upon the Council to work with federal agencies during the budget development and submission process in order to ensure that budget priorities reflect the priorities of the National Management Plan. The legislation also calls on the Office of Management and Budget to develop a crosscut budget of all invasive species efforts in the federal government. This is a necessary tool for the Council to coordinate efforts among the various federal agencies.

Finally, the legislation retains the existing Invasive Species Advisory Council to serve as an important contributor to the ongoing dialogue between the federal government and stakeholders to ensure that the federal government acts in the most effective way.

This legislation will help further the federal government's efforts to combat invasive species, and I urge all of my colleagues to co-sponsor this important legislation.

HONORING PETALUMA BRANCH OF  
THE AMERICAN ASSOCIATION OF  
UNIVERSITY WOMEN

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Petaluma Branch of the American Association of University Women for 50 years of community service. AAUW Petaluma has tirelessly advocated for equity for women and girls, lifelong education, and positive societal change. With over 200 members, AAUW Petaluma has developed a variety of successful methods to promote their agenda.

In recent years, the AAUW Petaluma has been awarded the Silver, Gold and Platinum awards for excellence in recruitment, program content, success of their projects, and their overall positive energy by AAUW National.

Many of the programs sponsored by AAUW Petaluma are integral in bringing our community together. For example, mentoring and tutoring programs in the high schools involving adults and peers have helped build intergenerational relationships, and the All-Petaluma Schools Community Art Show and Art Train Docents have helped keep art programs alive in the community.

AAUW Petaluma's community involvement does not stop there. The group has organized

community forums on health and planning issues. They exemplify an organization truly giving back to the community. In fact, I recently had the privilege of attending a developing relationships and connections event.

Mr. Speaker, it is my pleasure to honor the American Association of University Women, Petaluma Branch as an organization that has for the past half-century contributed to the women, girls and community of Petaluma.

THANKING MR. ART NASH FOR HIS  
SERVICE TO THE HOUSE

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. NEY. Mr. Speaker, on the occasion of his retirement in March of 2005, we rise to thank Mr. Art Nash for 26 years of outstanding service to the United States government, with the majority of it here in the U.S. House of Representatives.

Art began his government career in 1967 as a soldier in the U.S. Army where he was trained as an electronics technician and served two years. After 10 years in the private sector he began his House career at the House Recording Studio's engineering department in 1980. For the next 24 years, Art has been an indispensable member of the television floor coverage crew, the Recording Studio tape room and maintenance shop.

Art has been described as a man of God who loves all people. His positive attitude has been his trademark and the term "detail man" best describes him. He has been an excellent teacher to his co-workers and all those around him. He has taken his time to do the job right or find an even better way. Service has been his greatest achievement. Whether it was during the long hours that the House was in session or working side by side with his co-workers, Art Nash has given his best.

On behalf of the entire House community, we extend congratulations to Art for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish him many wonderful years in fulfilling his retirement dreams.

HONORING THE DEDICATION OF  
ATASCOSA COUNTY APPRAISER  
EDDIE BRIDGE

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Atascosa County Appraiser Eddie Bridge.

Eddie Bridge is a hard working member of our community, helping to appraise real estate and personal property in Bee, Crane, Crockett, and Refugio Counties. He also spends his time consulting and assisting the staff members of Frio, Hall, Irion, Martin, Menard, and Starr Counties in both physical and statistical reappraisals. Starting off as a Valuation Consultant with Pritchard and Abbot in 1993, Mr. Bridge has many years of experience in his special line of work.

Mr. Bridge is a model of energy and commitment, often working from eight in the morning till nine in the evening. Despite his demanding schedule, Mr. Bridge still finds time for ranching and running cattle.

Eddie Bridge lives in Pettus with his wife of 24 years and his two children. Both of his children are Valedictorians and his son Edward II serves at the Air Force Academy in Colorado Springs, Colorado.

Our Nation is built upon the hard work and dedication of citizens like Eddie Bridge, and it is important to recognize the value of their daily contributions to both town and country.

Mr. Speaker, I am proud to have this opportunity to recognize the contributions of Atascosa County Appraiser Eddie Bridge.

HONORING OUR NATION'S YOUTH  
ON THE 10TH ANNUAL KICK  
BUTTS DAY, AN ANNUAL CELEBRATION  
OF YOUTH LEADERSHIP  
IN THE FIGHT AGAINST TOBACCO

**HON. MARTIN T. MEEHAN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. MEEHAN. Mr. Speaker, I rise to honor our nation's youth today on the 10th annual Kick Butts Day, an annual celebration of youth leadership and activism in the fight against tobacco use.

Over the past 10 years, our nation has made significant progress in reducing youth smoking rates. Young people themselves have played a major role in this success. We should be proud that we've reduced smoking rates among high school students by 40 percent since 1997, when smoking rates among youths peaked at an alarming 36.4 percent.

But we have more work to do. About 22 percent of high school students still smoke. Tobacco is still the leading preventable cause of death in our country, killing more than 400,000 people every year. On Kick Butts Day, we should commit to finishing the job of protecting our kids from tobacco addiction by supporting science-based tobacco prevention measures, strong deterrents to youth smoking, well-funded tobacco prevention and cessation programs, smoke-free air laws, and FDA authority over tobacco products and marketing.

Mr. Speaker, I would like to insert in the RECORD the attached report by the Campaign for Tobacco-Free Kids entitled "Ten Years of Kicking Butts: Reducing Youth Smoking in the United States." It is a valuable summary of the progress we have made in reducing youth smoking, the evidence that common sense solutions work, and the need still to redouble our efforts.

TEN YEARS OF KICKING BUTTS: REDUCING  
YOUTH SMOKING IN THE UNITED STATES—  
KICK BUTTS DAY 10TH ANNIVERSARY REPORT

On May 7, 1996, the Campaign for Tobacco-Free Kids held the first annual Kick Butts Day to focus the nation's attention on the serious and growing problem of youth tobacco use in our country. At that time, youth smoking rates had been rising alarmingly for several years, fueled by cigarette marketing campaigns such as Joe Camel and the Marlboro Man that appealed to youth and deep price cuts that made cigarettes more affordable to kids. In 1997, smoking

rates among high school students reached an all-time-high, with 36.4 percent of high school students reporting that they were current smokers.

As we celebrate the 10th annual Kick Butts Day on April 13, 2005, the picture is much improved. After nearly 10 years of hard work, our nation has turned the tide, and we are making unprecedented progress in reducing youth tobacco use in our country. By implementing scientifically proven solutions like tobacco tax increases, well-funded tobacco prevention programs and smoke-free air laws, we have reduced smoking rates among high school students by 40 percent since 1996.

Still, there is much work to be done. Tobacco use remains the leading preventable cause of death in our country, killing more than 400,000 people and costing the nation more than \$89 billion in health care bills every year. A quarter of all high school seniors still smoke, and another 2,000 kids become regular smokers every day, one-third of whom will die prematurely as a result.

Perhaps most troubling, a survey released March 31, 2005, by the Centers for Disease Control and Prevention (CDC) found that our progress in reducing youth smoking has slowed considerably or stalled completely. The survey found no statistically significant change in either high school or middle school smoking rates from 2002 to 2004.

Public health experts have pointed to several reasons for this leveling off in youth smoking rates: While states have cut tobacco prevention funding by 28 percent in the last three years and the American Legacy Foundation has also had funding reduced for its effective, national truth® youth smoking prevention campaign, the tobacco companies have increased their marketing expenditures to a record \$12.7 billion a year—more than \$34 million a day. More than two-thirds of all tobacco marketing dollars is spent on cigarette price discounts and free cigarette giveaways that make cigarettes more affordable to kids, who are very price-sensitive.

The recent CDC survey is a wake-up call to elected leaders at all levels that we cannot take continued progress in reducing youth smoking for granted and must redouble efforts to implement proven measures to reduce tobacco use, including tobacco tax increases, well-funded tobacco prevention programs, and smoke-free air laws. It is also critical that Congress enact legislation granting the U.S. Food and Drug Administration authority to regulate tobacco products, including the authority to crack down on marketing and sales to kids. If we take these steps, our nation will continue to achieve significant reductions in youth tobacco use. If we fail to do so, the progress we have made is at risk and could even reverse.

This report summarizes the progress we have made in reducing youth smoking in the United States and the challenges that remain.

#### PROGRESS IN REDUCING YOUTH SMOKING, SAVING LIVES AND SAVING MONEY

High school smoking rates have been reduced by 40 percent since reaching an all-time-high in 1997—in 1997, 36.4 percent of high school students smoked; today about 22 percent smoke (source: CDC's Youth Risk Behavior Survey and Youth Tobacco Survey).

Youth smoking rates have been reduced among all vulnerable age groups. Since smoking rates peaked in 1996–1997, we have reduced smoking by 56 percent among eighth graders, 47 percent among tenth graders and 31.5 percent among twelfth graders (source: National Institute on Drug Abuse Monitoring the Future Survey).

These declines mean that there are roughly 2 million fewer high school kids smoking

than there would have been if smoking rates had remained constant.

These reductions in youth smoking will prevent 600,000 premature deaths due to smoking.

These reductions in youth smoking will save \$32 billion in tobacco-related health care costs.

#### SUCCEEDING BY IMPLEMENTING SCIENTIFICALLY PROVEN SOLUTIONS

Our nation has succeeded in reducing youth smoking by implementing scientifically proven solutions, including tobacco tax increases, tobacco prevention programs funded with tobacco settlement and tobacco tax dollars, and smoke-free air laws that require all workplaces and public places to be smoke-free. We are making significant progress in implementing these solutions:

**Cigarette Taxes**—Forty-one states and DC have increased cigarette taxes since 1995, some more than once for a total of 79 separate cigarette tax increases. The average state cigarette tax has increased from 30.3 cents per pack on June 30, 1995, to 84.7 cents a pack (once all already approved cigarette taxes take effect July 1, 2005).

**Smoke-Free Air Laws**—In 1998, California became the first state to require all restaurants and bars to be smoke-free. Today, 10 states and 234 communities across America have strong smoke-free workplace laws. Seven states—California, Connecticut, Delaware, Maine, Massachusetts, New York and Rhode Island—have smoke-free laws that require all workplaces, including restaurants and bars, to be smoke-free. Three states—Florida, Idaho and Utah—have smoke-free laws that include restaurants, but not bars. Such laws now cover more than a third of the nation's population.

**State Tobacco Prevention Programs**—In 1996, only three states—Arizona, California and Massachusetts—had well-funded tobacco prevention programs. Today, 13 states do.

**National Public Education Campaign**—Another key factor in youth smoking declines has been the American Legacy Foundation's national truth® youth smoking prevention campaign. A study published in the March 2005 issue of the American Journal of Public Health found that declines in youth smoking accelerated after the launch of this campaign in 2000 and that there was a significant dose-response relationship between exposure to the truth® campaign's anti-smoking advertising and declines in youth smoking between 2000 and 2002, the period of the study.

#### DESPITE PROGRESS, CHALLENGES REMAIN

While our nation has made significant progress in reducing youth smoking, our work is far from done:

Tobacco use is still the nation's leading preventable cause of death, killing more than 400,000 people every year and sickening millions more.

Tobacco use costs our nation more than \$89 billion in health care bills and \$88 billion in productivity losses each year.

About 25 percent of high school seniors still smoke.

Every day, another 2,000 kids become regular smokers, one-third of whom will die prematurely as a result.

The tobacco industry is spending record amounts to market its deadly and addictive products. Since 1996, total tobacco marketing expenditures have increased by 144 percent to a record \$12.7 billion a year—more than \$34 million a day, according to the Federal Trade Commission's most recent annual report on cigarette marketing (for 2002). The tobacco companies spend more than \$23 to market cigarettes and other tobacco products in the U.S. for every dollar the states spend on programs to protect kids from tobacco. More than two-thirds of all tobacco

marketing dollars is spent on cigarette price discounts and free cigarette giveaways that make cigarettes more affordable to kids, who are very price sensitive.

While the tobacco companies have increased their marketing, the states have cut funding for tobacco prevention programs by 28 percent in the last three years (from \$749.7 million in Fiscal 2002 to \$542.6 million in Fiscal 2004). These cuts decimated some of the nation's most successful tobacco prevention programs, including those in Florida, Massachusetts and Minnesota. While more states have well-funded tobacco prevention programs today than 10 years ago, the bad news is that 37 states and DC are funding prevention programs at less than half the CDC's recommended minimum amount or providing no funding at all.

The progress of the past decade has shown that we have proven solutions to reduce tobacco use, including cigarette tax increases, well-funded tobacco prevention programs and smoke-free air laws. These solutions are the equivalent of a vaccine that protects kids from tobacco addiction and its deadly consequences. But like other vaccines, this vaccine must be administered to every generation of children. Otherwise, the tobacco epidemic will explode again, at great cost in health, lives and money.

#### CONGRATULATIONS TO MISS USA, CHELSEA COOLEY

#### HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mrs. MYRICK. Mr. Speaker, on April 11, 2005, Miss North Carolina, Chelsea Cooley, won the Miss USA pageant. I congratulate her on this momentous accomplishment and want her to know that everyone in her hometown of Charlotte, NC, is very proud of her.

The Miss USA pageant is a competition where America's best and the brightest young women compete for the crown of Miss USA. It is truly a great accomplishment for Chelsea to have been crowned as the winner of this tough competition.

Currently, Chelsea is studying fashion marketing at the Art Institute of Charlotte. She listed that her dream job would be working as a buyer for Ralph Lauren. I have no doubt that she can achieve this, and many other, dreams.

Chelsea will now go on to represent the U.S. this May in the Miss Universe competition in Bangkok, Thailand. Chelsea's hometown of Charlotte, North Carolina, will again be cheering her on as will the whole country. We know she will represent us well and will do our country proud.

#### HONORING THE CONTRIBUTIONS OF NEW BRAUNFELS CITY ATTORNEY CHARLES E. ZECH

#### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the contributions of City Attorney Charles E. Zech.

Charles Zech serves as the City Attorney for New Braunfels, Texas. He handles all aspects

of municipal representation for the City of New Braunfels by providing representation and legal advice to the City Council, city employees, and 27 boards and commissions.

Before graduating from Southwest Texas State University with a Bachelor of Business Administration in Economics and Finance, Mr. Zech was a member of the United States Navy. He went on to receive his law degree from St. Mary's University School of Law. Attorney Zech is licensed to practice in all County and District Courts of Texas, the Texas Supreme Court, and the United States District Court.

He is a member of the Texas Bar Association, the San Antonio Bar Association, the Comal County Bar Association, and the Phi Alpha Delta International Legal Fraternity.

As an active member of the Board of Directors of the Texas City Attorney's Association and the chair of the ethics section of the International Municipal Lawyers Association, it is obvious that Mr. Zech plays an active role in the legal community.

Mr. Speaker, I am proud to have this opportunity to recognize New Braunfels City Attorney Charles Zech for his dedication and contributions to the community and his service to our Country.

CONGRATULATING THE PRESIDENT OF THE TENNESSEE STATE UNIVERSITY, DR. JAMES A. HEFNER, ON HIS RETIREMENT

### HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. COOPER. Mr. Speaker, I rise today to recognize the extraordinary contributions of Dr. James A. Hefner, President of the Tennessee State University, and to congratulate him on the occasion of his upcoming retirement on May 31, 2005.

During 14 years of leadership as President of TSU, Dr. Hefner has operated under the motto that "a passionate faculty are the most important instruments of change in the academic environment." He is indeed "passionate" about encouraging students to reach higher academic heights and he is a strong advocate for excellence in education.

Dr. Hefner has helped countless students realize their educational goals and subsequent contributions to the community. Under his leadership, enrollment at TSU has grown from 7,405 in 1991 to 9,100. Dr. Hefner has elevated the standing of TSU to the extent that, for the past 11 years, the University has been consistently recognized in the U.S. News & World Report's "Guide to America's Best Colleges."

His rich career has spanned many areas of academia. Dr. Hefner has held positions as president of two universities, administrator, professor, writer and speaker. He credits the single common element of his success to his devotion to students. He strives to improve the education and financial conditions of minorities and is recognized as a renowned authority on minority economic issues. Dr. Hefner has authored 50 articles on economic research and authored or co-edited two books: *Black Employment in Atlanta and Public Policy for the Black Community: Strategies and Perspec-*

*tives.* He has served on many regional and national boards and associations dedicated to scholarship in economics, labor relations and public management. He is a consultant to the Congressional Black Caucus, the National Institute of Public Management, the Department of Health, Education and Welfare, and the Department of Transportation. In addition to numerous honors, publications and professional leadership positions, Dr. Hefner was awarded the Presidential Leadership Award from the National Association for Equal Opportunity in Higher Education (the organization's highest honor) and the Achievement Award in Research.

On behalf of the Fifth District of Tennessee, I join with Tennessee State University as they celebrate Founders Day to thank my friend and colleague, Dr. James A. Hefner, for his generosity, commitment and dedication to American scholarship and service to the State of Tennessee. I extend my heartfelt congratulations on his retirement and wish him all the best in his future endeavors.

IN TRIBUTE TO PATRICIA HAVENS

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to Patricia Havens, who has dedicated her life to preserving, researching and re-telling the history of my hometown of Simi Valley, California, and who will be honored this Saturday for her decades as a teacher, director and author in pursuit of that dedication.

Forty years ago, Pat Havens and 3 others founded the Simi Valley Historical Society. The society, largely under Pat's guidance, has been responsible for documenting and saving local buildings and antiques of historical significance. Many of them are now housed at the Strathearn Historical Park and Museum, where Pat serves as the Museum Director. The projects are ongoing.

The society is currently renovating Simi Valley's first house of worship, which opened as a Presbyterian church in 1902 and became a Catholic church 10 years later. The Rancho Simi Recreation and Park District purchased the building in 2002 and moved it to Strathearn Park, where it joins the Simi Adobe, which was built during the early days of the city's Spanish period beginning in 1795; the Strathearn family farmhouse that was built onto the adobe in 1892; the Simi Valley Library building that served the community from 1930-1962; and many other buildings and artifacts that tell the valley's story.

Preservation has not been enough for Pat Havens, however. Thirty years ago she began teaching the "History of Simi Valley" program and five years ago, in collaboration with Bill Appleton, she published through the historical society a comprehensive history of the valley, "Simi Valley: A Journey Through Time."

The City Council named Pat as Simi Valley's first City Historian while I was mayor of the city, a post she still holds.

Pat's ties to Simi Valley run deep. Although born in Arkansas, she moved here as a young girl and graduated from Simi Valley High School in 1947 with her future husband, Neil. Neil Havens served as the city's postmaster

for 30 years, following in the steps of his father and grandfather, and died peacefully last year. Together they raised three children in Simi Valley, Debra, Barbara and Russ.

During Pat's lifetime, Simi Valley transformed from a farming community into a thriving suburban city of 120,000 people. Thanks in large part to her efforts, Simi Valley's past was preserved before it slipped away. Mr. Speaker, I know my colleagues join me in thanking Pat Havens for dedicating 40 years to preserving Simi Valley's history and for helping to make it relevant to our lives today.

HONORING THE CONTRIBUTIONS OF THOMAS C. LOPEZ OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Thomas C. Lopez of the San Antonio Independent School District for his dedication to public service.

A long time resident of Texas, Thomas C. Lopez was born in San Antonio. He is a strong believer in his community, where he continues to work hard ensuring that our children receive the education that they deserve.

Thomas C. Lopez is no stranger to public service. He spent thirty-four years in the United States Army Reserve in active and reserve time. Having served his country, he retired with the rank of Major in 2004.

A strong believer in education, Mr. Lopez currently serves as Secretary and District 5 Trustee of the San Antonio Independent School District. He has also helped to improve our community through his involvement with the Affordable Housing Board of San Antonio Housing Services.

Mr. Lopez has striven to achieve the continued rebuilding of our inner-city neighborhoods. Because of his dedication toward education and housing, San Antonio, Texas is a better place for our families to live.

Mr. Speaker, I am deeply proud to have been given this opportunity to recognize Thomas C. Lopez of the San Antonio Independent School District for his dedicated service to his community.

HONORING THE LIFE AND ACHIEVEMENTS OF HIS HOLINESS POPE JOHN PAUL II AND EXPRESSING PROFOUND SORROW ON HIS DEATH

SPEECH OF

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 6, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to honor His Holiness Pope John Paul II.

As the first non-Italian pope in 455 years, Karol Wojtyla would have drawn distinction no matter what his papacy held. However, his 26-year reign as the 264th pope has proven to be a remarkable and historic papacy.

Perhaps it was the very nature of the Holy Father's upbringing—the personal tragedies he underwent as a youth, as well as his firsthand experiences with the totalitarianism of Nazism, then Communism—that shaped his world view and enabled him to serve as pope with such zeal and commitment.

His was a lifespan that began in a world of biplanes and horse-drawn carriages, saw the advent of spaceflight and nuclear bombs, and ended in a "global neighborhood" made possible by personal computers and instant communications. Perhaps only someone with these experiences could have appropriately taken on the challenges of the 21st Century in such a dynamic and tireless manner.

His worldwide travel, where he gained the attention of people of many faiths and embraced Catholics on all continents, will constitute a lasting legacy. Many Americans witnessed, first hand, the strength of his conviction and dedication to his mission during the Holy Father's 7 historic visits to the United States. In 1987 he honored my home city of Los Angeles with a visit that Angelinos still talk about. Those arduous travels, even during his years of declining health, demonstrated the importance of perseverance and faithful struggle.

Pope John Paul II was an inspiration to all generations throughout his 26-year reign. He inspired in us a sense of hope and self worth that encouraged us to live better, fuller lives. He reached out to the world's youth and taught them the value of integrity, courage, honesty, and forgiveness.

And despite the many challenges the Church faced during his papacy, he was admired for his resoluteness, even as Catholics around the world reacted in numerous ways to his direction of the church.

John Paul II was not just the leader of the Roman Catholic Church, however, he was a world leader, and he actively shaped world affairs including negotiating peace treaties and helping ensure the end of European Communism. He reasserted the Church's role on the world stage and was a global champion on issues of conscience, social justice, and peace. The tremendous outpouring of genuine sorrow throughout the world since the Pontiff's death is a testament to the impact his ministry had on people of all continents and all faiths.

Mr. Speaker, the "Shoes of the Fisherman" are empty, and I extend my sincere sympathy to my constituents, including Roger Cardinal Mahoney, all Los Angeles-area Catholics and all people of good will who mourn the Pontiff's passing.

Pope John Paul II's life of service was a life well lived, and it will be remembered in the hearts and minds of the people he touched around the globe for many generations to come.

NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP

**HON. STEVEN R. ROTHMAN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. ROTHMAN. Mr. Speaker, I rise today to commend the Board of Directors of the National High School Mock Trial Championship for their commitment to a competition that is

all-inclusive and sensitive to religious minorities.

The National High School Mock Trial Championship is a prestigious event that requires a tremendous amount of preparation, skill, and dedication on behalf of those students who are competing, and is looked upon with distinction by institutions of higher learning. The Torah Academy from Teaneck, New Jersey, located in my Congressional District, won the New Jersey State Bar Foundation competition, and advanced to the national championship, which is to be held on May 4–7, 2005 in Charlotte, North Carolina.

The members of the mock trial team from Torah Academy observe the Sabbath, in accordance with their practice of Orthodox Judaism, and will therefore not be able to participate in any National High School Mock Trial Championship competition from sundown on Friday, May 6 through sundown on Saturday, May 7, 2005. After much discussion between the school, the national organizers, the New Jersey State Bar Foundation, and me, the Torah Academy will now be able to participate fully without being forced to violate its members' religious beliefs. The national organizers of the event have agreed to rearrange the schedule of the tournament to accommodate students of all religious faiths.

I thank the Board of Directors of the National High School Mock Trial Championship for their willingness to change the schedule to allow all students to fully compete in this competition. This is fundamentally a question of equal access and the right of religious minorities to participate in a competition open to students from every walk of American life, and I encourage the national organizers to restructure the schedule of competitions in future years with this in mind.

HONORING THE EXEMPLARY WORK OF THE PLEASANTON POLICE DEPARTMENT

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the exemplary work of the Pleasanton Police Department of Texas. They have shown outstanding dedication and commitment to the community for 53 years.

The Police Department was founded in 1952 and the first Chief of Police was Joe Sanders. Since 1952 there have been eight chiefs of police, and today the police department is made up of 16 commissioned officers, 5 communications operators and 1 data entry clerk.

The Pleasanton Police Department officers are devoted to performing their jobs in a professional manner while they are serving the community and the surrounding areas. The police department encourages all of its members to engage in community-building practices in order to provide quality service to all residents of the Pleasanton community.

The Pleasanton Police Department always strives to provide the highest quality service, preserving human rights, lives and property, while achieving the goals of the department serving the city and community. Currently holding the position of Chief is Gary Soward and Assistant Chief is John Eric Rutherford.

The men and woman of the Pleasanton Police Department are committed to excellence in leadership, providing progressive and proactive services that help to develop community partnerships and building for a better future.

Mr. Speaker, I am honored to have had this opportunity to recognize the noble service of all the officers at the Pleasanton Police Department.

HONORING THE LIFE OF FORMER CONGRESSMAN WILLIAM LEHMAN

SPEECH OF

**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 12, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to honor a great man, Congressman William Lehman of Florida. In his passing, I have lost a dear friend, Congress has lost a role model, and the Nation has lost a brave leader and national hero.

Congressman Lehman was, above all, a true liberal, dedicated to equality among races and classes. He opened his used car dealership in a black neighborhood, and was one of the few dealers in the 1940's and 1950's—white or otherwise—who would finance cars for black customers. He supported issues that were important to poor communities, fighting against highways that divided and ruined communities, and bringing home more than \$800 million for a Metrorail system in Miami, providing multiple ways for the poor to get to and from work.

He was also a gifted politician, inspiring loyalty in his committee members and his party. He neither dictated policy, nor ran his subcommittee overseeing highways, seaports and mass-transit systems with an iron fist, but by striking a perfect balance between offering incentives to cooperate and promising consequences to those who didn't. He knew all the legislative routes, and successfully steered bills he believed would benefit his constituents and the country around the road blocks and land mines in the House. If he was defeated on the House floor, he would work tirelessly in the conference committee to ensure the soundest legislative policies were written into law.

Bill was respected on both sides of the aisle, and had friends in both parties and all over Capitol Hill. He conducted himself with dignity, and he showed others that he believed in the issues he fought for, and wasn't merely supporting them for political purposes. When you hear people describe him, they almost always include the words "honest" and "moral", attributes that are rarely connected with politicians in this day and age, but which truly fit Bill.

Even after becoming one of the more influential members of Congress, he never lost touch, with his roots. He maintained his southern accent and his unpolished yet powerful manner of speaking throughout his career, and continued to dine and spend time in his old neighborhood.

One would be hard pressed to find a Congressman who took more risks, and for more noble reasons, while in office. In 1988 he chartered a plane to Cuba and successfully

negotiated the release of three political prisoners, endearing him to the conservative Cuban community in his district. Seven years earlier he had negotiated the release of a political prisoner in Argentina, and he smuggled an artificial heart valve into the Soviet Union for an ailing 22 year old woman.

In my mind, Bill was more than a gifted colleague and a good person; he was a very close friend. I can attest that this is one of the rare cases where the statements being made about a person after his death are absolutely true. He was as good of a person in life as he is being described in death—a smart, moral, genuinely decent human being, one whose company it was a pleasure to keep.

Over the years I had the pleasure of working with Congressman Lehman a number of times. We served on the House Judiciary committee together, and in 1982 we traveled to several Latin American countries, including Nicaragua to investigate illegal arms sales. He was as much of a gentleman in the professional world as he was in the personal one.

Our country has experienced a great loss. Congressman Lehman was the kind of man who does not come around often, and we were blessed to have him in Congress. He was a role model to politicians everywhere and an inspiration to citizens all across the Nation. He will be sorely missed wherever he was known.

IN HONOR OF MICHAEL J. BENNETT'S 40 YEARS OF SERVICE TO ST. MARK'S SCHOOL OF TEXAS

### HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to Michael J. Bennett's 40 years of teaching at St. Mark's School of Texas. I am proud to represent St. Mark's in the 32nd Congressional District of Texas.

Born four months before the German Blitz, Michael Bennett grew up "in the East End of London, not the rich part, but the tough part." He attended the East Ham Grammar School for Boys where he skipped his fifth year. As a "Sixth Former" or Senior, he was expected to specialize in an academic area to prepare for the demanding A Level exams. His father, understanding the importance technology would play in revitalizing post-war England, suggested he study Science. But as Michael recalled, while in Science class one day the Headmaster said "This is not the place for you . . ." and he was right . . . I chose the Classics and that has made all the difference."

Michael passed his A Levels and was awarded a scholarship to study at Christ Church, Oxford where he studied Classics and graduated with honors, earning both a B.A. and M.A. He would later earn another Master's Degree from the Bread Loaf School of English at Middlebury College. Michael has also studied at the Vergilian Society School at Cumae.

At the age of 22, he joined the faculty of the St. Andrew's School in Middletown, DE as teacher, debate coach, and Head of the Classics Department. Three years later, in 1965, he came to St. Mark's. During his tenure at St. Mark's he has taught Latin, Greek,

English, Debate and Fine Arts. He served as advisor for the Trivia Club, the Film Society, and the Junior Classical League. He was a member of the Curriculum Study Group and founded the Classical Society that presented plays in Latin by Roman playwrights Plautus and Terrence. In addition to teaching Latin, he currently serves as Senior Master, Chairman of the Faculty Advisory Committee, Latin Club Sponsor, Chairman of the John H. Murrell Awards Committee, Seventh Grade Class Sponsor, and President of Cum Laude. Outside school, he is the Opera critic for Northside People.

Michael is married to Dena, a freelance writer. He has two children. Sarah lives in Tacoma, WA where she is a child and family counselor. His son Paul, an alumnus from the Class of 1980 from St. Mark's is an attorney who lives in Annapolis, MD with his wife and three children, Jeffrey, Allison and Annie. Michael proudly notes that grandson Jeffrey is a straight "A" student in his Latin class.

I would like to extend my sincere congrats to Michael and his family on this great occasion and wish him additional success as he continues to teach at St. Mark's.

HONORING THE CONTRIBUTIONS OF McMULLEN COUNTY TAX COLLECTOR ANGELA BOSWICK

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the McMullen County Tax Collector Angela Boswick for her dedicated public service.

Angela Boswick is a proud native of Southwest Texas. She was born in Menard, Texas, where she attended Menard High School.

She began her professional life in the banking industry. During that period, she acquired the expertise and competence in finance that have stood her in such good stead during her work for the county.

Ms. Boswick has lived in McMullen County for the past 25 years. She entered public service in the tax office 15 years ago. Her hard work and competence have been repeatedly recognized by the county, and she has repeatedly been promoted, eventually rising to her current position as County Tax Collector.

Angela Boswick has been married for 10 years, and has further contributed to her community by raising two wonderful girls. She is the kind of public servant who holds our towns and cities together: hardworking, accountable, persistent and dedicated. Too often, the public servants who hold vital but low-profile positions such as tax collector do not get the recognition they deserve. For that reason, I am especially happy to have had the chance to thank Angela Boswick here today.

EXPRESSING LAMENT FOR THE GOUDSWARD FAMILY

### HON. FRANK PALLONE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. PALLONE. Mr. Speaker, I rise on the House floor to express my deep sorrow for

Diana Goudsward Collentine and her daughters, Kristina and Jennifer, the daughter and granddaughters of James and Marjorie Goudsward. On January 4, 2002, Diana and her two daughters were walking in a school safety zone in Waldwick, NJ when they were struck by an automobile operated by a medically impaired driver. This accident resulted in the tragic deaths of all three citizens.

In this tragedy's aftermath, Doug Goudsward, brother to Diane, has dedicated himself to preventing the medically impaired driver from obtaining a valid driver's license in another State, thereby further endangering the public. To this day, his brave and persistent efforts to protect the public have unfortunately not been fruitful.

Mr. Speaker, this situation is quite tragic and it is clear that Congress should work with the National Highway Traffic Safety Agency (NHTSA) to study the complex and controversial issue of medically impaired drivers. Congress and the NHTSA should develop guidelines, which are respectful to individual drivers, while setting appropriate standards for driving privileges that ensure the safety of communities and the general public.

RECOGNITION OF SGT. KENNETH "LEVI" RIDGLEY

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Army Sgt. Kenneth L. Ridgley who was recently killed in action fighting for freedom in Mosul, Iraq.

Ridgley was a 30-year-old who grew up in Pearl, Mississippi. He graduated from East Richland High School in Olney, Illinois. He then went on to attend Southern Illinois University in Carbondale. He served as an Army sergeant assigned to the 3rd Battalion, 21st Infantry Regiment, 1st Brigade, 25th Infantry Division based at Fort Lewis, Washington. He was recently killed in action as a result of a combat related injury.

Sergeant Ridgley is survived by his wife, Charity Ridgley, of Steilacoom, Washington; a son, Dillon Ridgley; his father and mother, Clarence and Betty Richards, of Olney; a brother and his wife, Stan and Pam Richards, of Alhambra; and three sisters, Sonja Terry and her husband, Randy, of Willingford, Connecticut, Sher Richards and her husband, Steve Millett, of Columbus, Ohio, and Peggy Flauta and her husband, Rey, of Truckee, California I am proud of the service this young man gave to our country and the service his fellow troops perform everyday. Not enough can be said about Sergeant Ridgley. It is troops like him that are risking their lives day in and day out to ensure our freedom here at home and to others throughout the rest of the world. I salute him and my best wishes go out to his family and all the troops fighting to ensure freedom and democracy.

HONORING THE CONTRIBUTIONS OF DOUG SELLERS OF THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Mr. Doug Sellers of the San Antonio Independent School District for his active work in our community.

Doug Sellers was born in the great State of Texas in 1952. He attended high school in San Antonio, where he currently serves as District 4 Trustee for the San Antonio Independent School District.

Doug Sellers is the type of educator who listens to our kids. Having started out as a Band Booster, he has been involved in the school district for over 15 years and he understands the unique needs of our children in the San Antonio community.

Doug Sellers believes that positive change in the educational community is the best way to help our city rise to the challenges of the next century. He has striven to make the San Antonio Independent School District a place where he is proud to send his own grandchildren.

Mr. Sellers is dedicated and passionate about improving our schools and he works hard for our community. Under Doug Sellers guidance, our educational and arts communities have a bright future.

Mr. Speaker, it is an honor to have been given this opportunity to recognize Doug Sellers of the San Antonio Independent School District for his dedication to the educational and arts communities.

INTRODUCTION OF THE NATIONAL AQUATIC INVASIVE SPECIES ACT

**HON. WAYNE T. GILCHREST**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. GILCHREST. Mr. Speaker, I join my colleague, Representative VERNON EHLERS, in introducing a pair of bills that comprehensively address the growing problem of aquatic invasive species in the United States and its territories. These foreign invaders, from Sea Lamprey in the Great Lakes to Asian Carp in the Mississippi to Moon Jellies in the Gulf to Rappa Whelk in the Chesapeake Bay to Zebra Mussels across the U.S. and hundreds of other plants, fish, and invertebrates, cause significant economic and ecological damage throughout North America. In recent estimates, invasive species are demonstrated to cost the U.S. at least \$138 billion per year. Forty-two percent of the species on the federal threatened and endangered species lists are negatively impacted by invasive species. Once established, invasive species displace native species, impede municipal and industrial water systems, degrade ecosystems, reduce recreational and commercial fishing opportunities, and can cause public health problems.

Aquatic invasive species are a particular problem because they readily spread through interconnected waterways and are difficult to

treat safely. Hundreds of exotic species arrive in U.S. waters every day through a variety of pathways such as ballast water, hull fouling, aquaculture and the seafood trade. Without effective federal policies to prevent and control these introductions, we willingly surrender our valuable resource assets to these invasive species.

The National Aquatic Invasive Species Act of 2005 (NAISA) will address these problems by: (1) Establishing a national mandatory ballast water management program, (2) Requiring ships to have an Invasive Species Management Plan that outlines ways to minimize transfers on a "whole ship" basis, (3) Creating a ballast water treatment technology certification program, and (4) Including incentives for ship owners to install experimental ballast treatment technology.

NAISA would also prevent invasive species introductions from other pathways by: (1) Identifying and managing pathways that pose the highest risk of introducing invasive species, (2) Creating a screening process for planned importations of live aquatic organisms, (3) Supporting development and implementation of State Aquatic Invasive Species Management Plans, including early detection, screening and rapid response activities at state and regional levels, (4) Conducting ecological surveys for early detection of invasive species and analysis of invasion rates and patterns, (5) Making available federal funding and resources for rapid response to introductions of invasive species, (6) Preventing inter-basin transfer of organisms by increasing funding and resources for dispersal barrier projects and research, (7) Establishing environmental soundness criteria to ensure all prevention and control measures enacted do not further harm the environment, (8) Creating education and outreach programs to inform the public on preventing transfers of invasive species by proper cleaning of recreational boats, and proper disposal of nonnative organisms for home aquaria, (9) Conducting research on high-risk invasion pathways and alternative prevention and control technologies, and (10) Making available \$170 million in federal funds for aquatic invasive species prevention, control, and research.

Congress has addressed this issue in two past legislative initiatives: the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) and its reauthorization as the National Invasive Species Act of 1996 (NISA). Spurred by the growing concern over the zebra mussel invasion in the Great Lakes, NANPCA created a multi-agency task force, the Aquatic Nuisance Species Task Force, to address the issue of aquatic invaders and empowered the Coast Guard to develop guidelines for ballast water management for the Great Lakes. In 1996, Congress expanded the ballast water guidelines to a national voluntary program to be made mandatory if compliance is not sufficient.

While these laws made some progress, they have not yet solved the problem of aquatic invasive species introductions. For example, the national ballast water guidelines have seen low compliance. In addition, the only prevention option currently available to ships, ballast water exchange, has varying effectiveness that is difficult to measure, causes vessel safety concerns, and is not appropriate for coastal voyages. Development of new methods of combating transfers of organisms from

ballast water has been slow due to the lack of a ballast water standard and low funding for development of new technology.

We need improvements in current law. Our bills have been carefully researched and subjected to broad stakeholder review, and we believe the public and industry stakeholders will support both. We are drastically underinvesting in research and efforts to prevent, control, and eradicate aquatic invasive species. We don't get a second chance to prevent an invasive organism from taking hold in our waters. Our bills would make the U.S. proactive in saving its citizens billions of public dollars by allowing us to stop future invasions while effectively controlling and eradicating current invaders.

I urge my colleagues to support the National Aquatic Invasive Species Act and comprehensive prevention, control, and eradication of invasive species in the U.S.

RECOGNIZING SAN JOAQUIN COUNTY SHERIFF'S DEPARTMENT'S 1996 S.W.A.T. TEAM

**HON. RICHARD W. POMBO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. POMBO. Mr. Speaker, I rise today to recognize the San Joaquin County Sheriff's Department's 1996 S.W.A.T. Team. That year was both successful in combating crime and yet terribly tragic as they faced the loss of a fellow S.W.A.T. Team member. The S.W.A.T. Team completed over 550 search warrants, experienced three shootings, and experienced the devastating loss of Deputy Dighton Little, who was killed in action while serving the people of San Joaquin County. His heroism will be remembered by my constituents, and I rise this day to honor his memory.

Mr. Speaker, please join me in congratulating each member of the San Joaquin County Sheriff's Department's S.W.A.T. Team of 1996 for their exemplary devotion, service, and selflessness in their important role as protectors of the community. The S.W.A.T. Team of 1996 included: Sergeant Walt Shankel, Sergeant Robert Humphreys, Deputy Richard Cordova, Deputy Jody Leberman, Deputy Richard Dunsing, Deputy Adail Thrower, Deputy Mark Dreher, Deputy Steve Rivera, Deputy Gilbert Mendez, Deputy Don Tisher, Deputy Steve Fontes, Deputy Gary Sheridan, Deputy Armondo Mayoya, Deputy Jesse Dubois, Deputy Dave Claypool, Deputy Ken Bassett, Deputy Ken Rohde, Deputy Albert Garcia, and Deputy Dighton Little (killed in action). I am in deep admiration of these fine members of my congressional district, and am pleased to honor them today in the chamber of the House of Representatives.

IN HONOR OF SERGEANT FIRST CLASS DANA BOWMAN (RET.)

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of SFC Dana Bowman, a courageous and dedicated former soldier in the United States Army.



Sergeant First Class Bowman, a former member of the Army Special Forces and the "Golden Knights"—the Army's elite parachute team—has inspired the world in his recovery and unwavering will to succeed, despite all odds, following his tragic training accident in 1994. At Yuma, Arizona, Sergeant First Class Bowman and his fellow paratrooper, Sergeant First Class Jose Agillon, struck each other midair, severing both of his legs.

Not only did Sergeant First Class Bowman recover and re-enlist in the Army after a mere nine months, thereby becoming the first double amputee to re-enlist, but he became the United States Parachute Team's recruiting commander and lead speaker, telling others of the great sense of fulfillment and accomplishment such a duty can bring. From his military retirement in 1996 to the present, Sergeant First Class Bowman has encouraged the physically impaired and disabled community to never underestimate their potential to achieve their dreams, succeed in work and thrive in life.

Mr. Speaker, please join me in honor and recognition of SFC Dana Bowman. His positive outlook on life, personal strength, and will to uplift others touches all who come in contact with him.

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HONORING THE CONTRIBUTIONS  
OF PASTOR ANDREW WILSON

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**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Pastor Andrew Wilson of the Shiloh Missionary Baptist Church.

A native Texan, Andrew Wilson grew up in San Antonio, Texas. He graduated from Guadalupe Theological Seminary in 1984 and later was named recipient of an Honorary Doctorate of Theology from the Guadalupe District Association College.

Reverend Andrew Wilson has served as Pastor of the Shiloh Missionary Baptist Church for over twelve years. Under his active and passionate guidance, the Shiloh "Missionary Baptist Church has taken on numerous important community projects.

He serves as an active member of the Baptist Ministers Union, the Community Churches for Social Action, and as Spiritual Advisor to the San Antonio Chapter of the Texas Gospel Announcers Guild/Gospel Music Workshop of America. He also participates in the Nolan Street Bridge Program, which helps to feed the homeless in our community.

Pastor Wilson is the husband of Yvette Wilson, and father of Andrenette and the Reverend Leonard Wilson.

Mr. Speaker, Pastor Andrew Wilson is a source of tremendous strength for his community, and his commitment to serving his fellow man serves as a powerful example. I am proud to have the chance to honor him here today.

IN RECOGNITION OF THE MODESTO  
POLICE DEPARTMENT

**HON. DENNIS A. CARDOZA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CARDOZA. Mr. Speaker, I rise today to recognize the Modesto Police Department for being awarded full accreditation by the Commission on Law Enforcement Accreditation (CALEA). This accreditation is a significant accomplishment for the Department as only twenty four percent of all full-time police officers in the United States are members of agencies officially accredited by CALEA.

The goals of the CALEA are to strengthen crime prevention and control capabilities, formalize essential management procedures, establish fair and nondiscriminatory personnel practices, improve service delivery, solidify inter-agency cooperation and boost citizen and staff confidence in the agency. The Modesto Police Department was recognized with full accreditation for achieving and sustaining these goals.

Under the leadership of Police Chief Roy Wasden, the Modesto Police Department has worked diligently for many years to ensure that high quality professional police services are provided to the community of Modesto. The Department was finally recognized for their longstanding commitment to excellence in law enforcement after a thorough agency-wide evaluation and exacting outside review. The Modesto Police Department became the 13th law enforcement agency in California to achieve accreditation. It is now the largest police department in California to be accredited.

I ask that my colleagues join me in commending the Modesto Police Department for their hard work and commitment to protecting and serving our community. Standing with tradition, the Department can always be counted upon and turned to during times of need. Such outstanding departments are the cornerstones of each member of the Department for their hard work and tireless dedication. They are truly heroes of our community. I am honored to represent such a distinguished police department in the 18th Congressional District of California.

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REMEMBERING THE SREBRENICA  
MASSACRE

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, I want to bring to the attention of my colleagues House Resolution 199, regarding the 1995 massacre at Srebrenica in eastern Bosnian-Herzegovina. In July, ten years will have passed since thousands of Bosniaks perished in what was the worst atrocity committed during the three-and-a-half years of conflict in Bosnia. This was an absolute fiasco by the international community, eroding its credibility and principles. Those of us who worked together at the time in urging a more decisive international response can remember the horror associated with that conflict.

Many may ask: why do this? Why focus on what happened ten years ago in a region that

we are encouraging to look forward to a future that includes further European integration? I believe it is impossible to look forward without acknowledging the past and what really happened at Srebrenica. We have many lessons to learn from the past.

First, the very fact that many of those responsible for the Srebrenica massacre—especially Ratko Mladic and Radovan Karadzic and others—not only have evaded justice in The Hague but may be receiving protection and are held almost as folk heroes by some indicates that the past has not been fully understood. Hundreds of people currently holding positions of responsibility are only now being investigated for possible connections to the massacre. Clearly the myths and propaganda originally used to justify a slaughter still hold sway in the minds of too many people.

Second, the international community must learn not to repeat the mistakes it made with horrible consequences in 1995. Some lessons have been learned. For the first time since World War II, for example, an international tribunal was created to prosecute those responsible for war crimes, crimes against humanity and genocide. That body has borne some results, though its task is not complete.

Intervention in Bosnia-Herzegovina was not some reckless act, as some suggest, but a needed response made increasingly difficult by unnecessary delay. Mutual congratulations will undoubtedly come later this year when commemorating the ten year anniversary of the Dayton Agreement. We would do well, however, to recall that it was the simple shame of allowing thousands to be massacred within one of the international community's officially designated "safe areas" that finally motivated serious consideration of action against the brazen thugs responsible for these crimes. Unfortunately, it took additional atrocities before effective action was taken.

It is also helpful to listen to some of the words spoken in the aftermath of the Srebrenica massacre. For example, 27 non-governmental organizations—including religious and humanitarian organizations not usually inclined to support the use of force, as well as Muslim and Jewish organizations not known for taking common stands—issued a powerful statement:

Bosnia is not a faraway land of no concern to our "national interest." At stake is the global commitment to fundamental human values—the right not to be killed because of one's religious or ethnic heritage, and the right of civilians not to be targeted by combatants.

At about the same time, the U.N.'s rapporteur for human rights in the former Yugoslavia, former Polish Prime Minister Tadeusz Mazowiecki, explained why he could no longer "continue to participate in the pretense of the protection of human rights" and chose to resign in response to the events at Srebrenica. Known as a thoughtful, principled man, he said:

One cannot speak about the protection of human rights with credibility when one is confronted with the lack of consistency and courage displayed by the international community and its leaders. . . . Crimes have been committed with swiftness and brutality and by contrast the response of the international community has been slow and ineffectual.

If, when listening to these words from ten years ago, we think of subsequent events including Darfur today, we realize how little we have indeed learned.

In Bosnia-Herzegovina we also produced examples of the best in humanity, people in the international community—aid workers, soldiers, diplomats, journalists, monitors and advocates—who risked and sometimes gave their lives to prevent further loss of life. I particularly mention in this connection the American negotiators Robert Frasure, Joseph Kruzell, and Nelson Drew who died while traveling Bosnia's dangerous, war-torn roads. They deserve our gratitude for the efforts to restore peace in Bosnia-Herzegovina.

Finally, Mr. Speaker, we cannot forget the memory of the victims of Srebrenica and those who survived, but were traumatized by the debacle at Srebrenica. Many continue to wonder about the ultimate fate of the missing, even as new mass graves have been unearthed in northeastern Bosnia-Herzegovina. For these people, ten years is not long ago, and recognizing the pain and anguish they experienced may help bring closure for them. Some of these victims, I should add, have come to our country as refugees and are now Americans. They will no doubt be remembering the tragic events at Srebrenica ten years ago.

I will not detail here the almost unspeakable horrors that were part of the massacre at Srebrenica in July 1995. Some of the events are mentioned in House Resolution 199. Mr. Speaker, I hope that my colleagues will give this measure their serious consideration and active support.

HONORING THE 2005 DR. NAN S. HUTCHINSON BROWARD SENIOR HALL OF FAME ELECTEES

**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. SHAW. Mr. Speaker, I rise today to recognize the eleven electees to the Dr. Nan S. Hutchinson Broward Senior Hall of Fame for 2005. To coincide with the month of May as Older Americans' Month, the Area Agency on Aging of Broward County annually coordinates the Hall of Fame Elections to honor seniors who are dedicated to serving their community.

Mr. Vincent Ciardullo has donated over 7500 hours of community service to the Coral Springs Medical Center Auxiliary, where he holds the elected position of Parliamentarian and Chair of "Ways and Means." Mr. Ciardullo has also raised funds in excess of \$250,000 for the facility. In 1997, Mr. Ciardullo initiated the annual Teddy Bear Parade which has collected thousands of teddy bears that local police and EMS departments distribute to children in distress situations.

Mr. Nat Goren has dedicated himself to a number of South Florida medical centers. He has served on the Board of Directors for the American Cancer Society, is the Past President of the Alzheimer's Association of South Florida, and the Past Chairman of Broward Meals on Wheels. A World War II Naval Veteran, Mr. Goren is a devoted and active member of his community.

Ms. Jean Johnson has been involved with numerous charitable organizations including Sunshine Cathedral Board of Directors, the Jail Ministry, the Women's Guild, SAGE, Hollywood Humane Resource Advisory Board, Seniors and Law Enforcement Together, and the American Cancer Society. Ms. Johnson has also been an active volunteer at the Noble A. McArtor Adult Day Care Center, serving on the Sponsorship and Publicity/Advertising Subcommittees of the Advisory Council.

Ms. Betty Kaufman has coordinated fund-raising, education and outreach efforts for over 15 years. Ms. Kaufman has been recognized as Volunteer of the Year of the Advisory Council of the Area Agency of Aging. Ms. Kaufman has also been actively involved with the Broward Grandparents program; having worked on the Senior Spring Festival, Foster Grandparents Breakfast, and "Gift of Gold" Distribution. Additionally, her service received statewide attention in 1993, when the late Governor Lawton Chiles proclaimed two days in her honor for her leadership role in the marketing industry.

Mrs. Shirley Lewenberg has proven herself as an effective fund-raiser for numerous organizations. For the past several years, Mrs. Lewenberg has been involved with the American Cancer Society's Jail and Bail event, exceeding the nonprofit's fund-raising goals many times. Additionally, she has held the Area Agency on Aging's Fund-raising Co-Chair position, and has been honored as Volunteer of the Year.

Ms. Mary Macomber is involved with a variety of charitable causes which improve the quality of life of all for all Broward County residents. Ms. Macomber is actively involved with the Coordinating Council of Broward (CCB); serving as Chair of the Steering Committee, Multicultural Board, and Million Meals Committee. Ms. Macomber also gives her time to the City of Coral Springs Multicultural Advisory Board, South Florida Human Rights Council, and she is the Vice Chair of the Noble A. McArtor Adult Day Care Advisory Council.

Mr. Matt Meadows is a Past President of the Area Agency on Aging's Board of Directors and has served as member of the Alzheimer Association's Board of Directors since 1996. Mr. Meadows has served on the City of Lauderhill's City Commission for 6 years and has served as a Board Member for both the Broward and the Florida League of Cities Boards. Mr. Meadows has also worked extensively to benefit South Florida's minority populations through his work with the Florida Commission on Minority Health, the Florida Commission on Minority Economic and Business Development and the Florida Commission of African American Affairs.

Ms. Betty Priscak has been involved with numerous charitable organizations including Sunshine Cathedral Board of Directors, the Jail Ministry, the Women's Guild, SAGE, Hollywood Humane Resource Advisory Board, Seniors and Law Enforcement Together, and the American Cancer Society. Ms. Priscak has also been an active volunteer at the Noble A. McArtor Adult Day Care Center, serving on the Sponsorship and Publicity/Advertising Subcommittees of the Advisory Council.

Ms. Esther Schneiderman has worked with the Hollywood Hills Nursing Home for over 12 years. She has been recognized by the Home

as "Volunteer of the Year," and the Miami Herald has awarded her Honorable Mention for its Good Neighbor Award. Ms. Schneiderman has been involved with Hospice and Deborah Heart and Lung Center. She has also been recognized for her 15 years of service to the Retired Senior Volunteer Program (RSVP).

Ms. Shelly Spivak has devoted herself to a variety of charitable causes, while also maintaining a full-time career. Ms. Spivak has volunteered her time for the Governance Council of the United Jewish Community, the West Broward Unit Issues Committee of the American Cancer Society, the Allocation Committee of United Way of Broward, the Unit Board of the Boys and Girls Club of Hollywood, and the Cities in Schools of Broward County School Board.

Mrs. Mary Todd has been an active member of the Broward County Medical Association Auxiliary for over one quarter of a century, while serving as Chair, Vice Chair, Secretary and Corresponding Secretary. Mrs. Todd is also a dedicated Board Member for the Area-wide Council on Aging.

Mr. Speaker, for their dedicated service to the community, I wish to once again recognize these eleven outstanding seniors, who have been elected to the Dr. Nan S. Hutchinson Broward Senior Hall of Fame for 2005.

HONORING THE CONTRIBUTIONS OF MAYOR BILL CARROLL OF PLEASANTON, TEXAS

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Mayor Bill Carroll of Pleasanton, Texas for his distinguished record of dedication to his fellow citizens.

Bill Carroll was born and raised in Dilley, Texas. He served his country in Vietnam in 1968 and 1969, where he was a member of the 101st Airborne. He received his Bachelor's degree in Spanish from Texas State University, and first came to Pleasanton in 1979.

Mr. Carroll has been married to his wife, Beth, for 38 years, and has two sons. He has been highly active in community volunteer activities; he has been a member of the Knights of Columbus for over 30 years, and currently holds the rank of fifth degree knight and Ceremonial Delegate in that organization.

In 1998, Mr. Carroll was appointed to represent District 6 in the City Council. He was elected to the same office in 1999, and then rose to the rank of Mayor in May 2000. He has been reelected as Mayor in every subsequent year, and continues to hold the post today.

Mayor Carroll has distinguished himself as a soldier, a volunteer, a public servant, a husband, and a father. He is the kind of citizen who holds our communities together, through his hard work, energy, and willingness to serve. He is a credit and a blessing to Pleasanton, and I am proud to have the chance to thank him here today.

## PERSONAL EXPLANATION

**HON. RON LEWIS**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. LEWIS of Kentucky. Mr. Speaker, I was absent from the House on Tuesday, April 12, attending a funeral for a soldier in my district who died heroically last week in the effort to liberate Iraq. Had I been present, I would have voted the following way:

H.R. 135: To establish the Twenty-First Century Water Commission to study and develop recommendations for a comprehensive water strategy to address future water needs, "yea."

H.R. 541: To direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV, for continued use as cemeteries, "yea."

## INTRODUCTION OF THE ABANDONED MINE LANDS RECLAMATION REFORM ACT OF 2005

**HON. NICK J. RAHALL II**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. RAHALL. Mr. Speaker, today I am pleased to join our colleague Representative BARBARA CUBIN in introducing the "Abandoned Mine Lands Reclamation Reform Act of 2005" in recognition of the pressing need to make continued progress in restoring the environment in coalfield communities throughout the Nation.

Originally authorized as part of the landmark Surface Mining Control and Reclamation Act of 1977, to date over \$5 billion has been appropriated under the Abandoned Mine Reclamation Program in an effort to restore lands and waters adversely affected by past coal mining practices. These restoration projects normally involve threats to the public health and safety from dangerous highwalls, subsidence, refuse piles and open mine portals. They also include the construction of new water supply systems to coalfield communities where water supplies have been contaminated by past coal mining practices. Over the years, funds have also been made available under this program for emergency coal reclamation projects, the Rural Abandoned Mine Program, the Small Operators Assistance Program, certain noncoal mining reclamation projects and the administration of the program.

The primary delivery mechanism for these funds is through annual grants made through the annual appropriations process to 26 eligible States and Indian tribes. This effort is augmented by funds expended by the Interior Department's Office of Surface Mining (OSM) in States and tribes without approved reclamation programs. By most accounts, this effort has been a success achieving far more in real on-the-ground environmental restoration than programs such as the Superfund.

Yet, the mission of this program has not yet fully been accomplished which is the reason for the legislation I am introducing today. As it stands, there currently exists about \$3 billion worth of high priority human health and safety

threatening abandoned coal mine reclamation costs in this country. There are other costs as well, associated with lower priority abandoned coal mine sites. The fundamental purpose of the "Abandoned Mine Lands Reclamation Act of 2005" is to raise sufficient revenues which, when coupled with the unappropriated balance in the Abandoned Mine Reclamation Fund and the reforms proposed by the legislation, to finance the reclamation of the remaining \$3 billion inventory of high priority coal reclamation sites and draw this effort to a successful conclusion.

In this regard, it is essential to note that this program is not financed by the general taxpayer but rather through a fee assessed on every ton of coal mined. The unreclaimed coal sites eligible for expenditures under the program were primarily abandoned prior to the enactment of the Surface Mining Control and Reclamation Act of 1977 which placed stringent mining and reclamation standards in place. The authority to collect these fees was originally for a 15-year period. However, on two prior occasions through legislation I sponsored the Congress extended those fees collections in recognition of the continued need to address health, safety and environmental threats in the Nation's coalfield communities. Those fee collections are currently set to expire at the end of June this year.

A central feature of this legislation then is to extend that fee collection authority through the year to 2020. This is the period the OSM estimates will be necessary to generate the additional revenue to complete the high priority coal site inventory. However, that alone will not allow us to achieve that goal which is the reason for the reforms proposed by this bill.

Simply put, in my view over the years there has been a hemorrhaging of some of the funding made available under this program to lower priority projects. One of the reasons this reduction in focus on health and safety threatening projects has occurred is due to a late 1994 OSM policy shift that corrupted what is known as the general welfare standard in the coal reclamation priority rankings. This new policy has had the affect of allowing States to bootstrap what would normally have been lower priority 3 projects into the higher priority 1 and 2 rankings. To be clear, not all States or even a majority of States have taken advantage of this new policy and I commend them for that. Yet it is a fact that as a result of this new policy the bona fide \$3 billion inventory of unfunded priority 1 and 2 projects has swollen to over \$6 billion. I do not recognize this \$6 billion figure and neither does this legislation.

The reforms proposed by this bill include eliminating the general welfare standard and restricting the use of State/tribal share grants and supplemental federal share grants to bona fide coal priority 1 and 2 projects involving threats to human health and safety. Once those projects are completed and only when those projects are completed, with two minor exceptions, can a State or tribe undertake the lower priority coal projects under the certification program with their State/tribal share grants. The exceptions to this rule involve situations where a priority 3 site is undertaken in conjunction with a priority 1 or 2 site, or where a priority 3 site is addressed in association with a coal remaining operation. In effect, this legislation seeks to target the lion's share of available funding to coal priority 1 and 2s

keeping faith with the original mission of the program. Among other reforms envisioned are federal approval of any additions made to the official Abandoned Mine Reclamation Inventory and a review of those additions made since the OSM policy shift on the general welfare standard.

The purposes of these reforms are intended, as previously noted, to complete those projects which are necessary to complete for the sake of protecting the health and safety of coalfield residents. At the same time, they are also intended to give the coal industry which finances this program reasonable assurances that the fees it pays will not be squandered but put to good use, and to give the industry a time frame which it can count on when the assessment of those fees will no longer be necessary.

I would like to make note of two additional changes to current law proposed by this bill. As already noted, in the past appropriations were made available from the Abandoned Mine Reclamation Fund to the Rural Abandoned Mine Program (RAMP), an Agriculture Department program. No such appropriations have been forthcoming for six fiscal years now. I find this disappointing. While the Interior Department and the States from the very beginning were against RAMP funding, contending it was duplicative of their efforts, this in my view and in that of many others was not the case. RAMP served a distinctly different purpose involving a closer working relationship with landowners and sought to address reclamation projects on a more holistic basis. Another problem that also dogged RAMP was the fact that while it is an Agriculture Department program, its appropriations were being made out of an Interior Department trust fund by the Interior Appropriations bill. Obviously, Interior officials had little interest in this arrangement and so beginning in 1995 we have not been able to obtain funding for RAMP. In my view, this situation will not change if the status quo is maintained. For that reason, the legislation I am introducing today would authorize RAMP for general fund appropriations rather than out of the Abandoned Mine Reclamation Fund so that funding can be pursued through the Agriculture Department's Natural Resources Conservation Service's budget.

Finally, this legislation also seeks to deal in a comprehensive fashion with the problems which have been plaguing the coal miner health care program.

In that regard, the bill would lift the restriction that interest accrued in the Abandoned Mine Reclamation Fund can only be transferred to what is known as the Combined Benefits Fund for unassigned beneficiaries. Under this bill, all accrued interest would be available to keep faith with the promise made by the federal government many years ago to guarantee health care benefit for certain retired coal miners. Further, this legislation would also make accrued interest available for what are known as the 1992 and 1993 Plans. Due to a variety of factors, such as the rash of steel company bankruptcies and the Horizon decision of last year, these plans are coming under financial hardship and we must also keep faith with those retired coal miners and their dependents covered by them.

Mr. Speaker, it is time, far past the time, for this Congress to move forward with this legislation.

TRIBUTE TO DR. MARIAN J.  
HOCKENHULL

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. KILDEE. Mr. Speaker, I come before this body today to pay tribute to an outstanding woman, Dr. Marian J. Hockenhull. Dr. Hockenhull has been appointed the National Youth Director of the Young People's Department of the Women's Auxiliary to the National Baptist Convention, USA, Inc. The First Trinity Missionary Baptist Church will hold a reception to celebrate this prestigious appointment on Saturday, April 16 in my hometown of Flint, Michigan.

The list of Dr. Hockenhull's accomplishments is a testament to the energy and hard work she has expended over the years. She has received honor after honor from her sororities, her community and her church. She has received numerous awards at the local, district, state and national level. The leadership of the National Baptist Convention and Baptist World Alliance chose her to represent their organizations on the international level where she was able to bring her inspiration to persons in many nations.

Dr. Hockenhull has spent her life ministering to children. She is committed to improving the lives of the next generation both in the United States and around the world. As a retired educator of the Beecher School District, and in her work at the University of Michigan-Flint, she is a firsthand witness to the power of education to motivate and promote a better life. As an activist for youth, Marian Hockenhull has sought better living conditions, educational opportunities and the improved well being of the young.

This longstanding commitment to children is only underscored by her current appointment as the National Youth Director. The position will allow Dr. Hockenhull to continue her advocacy for children. I ask the Congress of the United States to join with me in congratulating Marian Hockenhull as she assumes her new post with the Women's Auxiliary of the National Baptist Convention.

SECURITY COUNCIL EXPANSION

**HON. JAMES A. LEACH**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. LEACH. Mr. Speaker, one of the most talked-about issues in foreign policy today relates to the nature and possibility of United Nations reform, including the question of whether to expand the number of permanent members of the U.N. Security Council.

Not unexpectedly, the People's Republic of China has expressed great angst about several of the proposed methodologies for expanding the number of permanent members—possibly because of historical friction between China and Japan and, to a lesser extent, India.

My sense is that the issue of the make-up of the Security Council should be the subject of serious review. As a former member of the United States Delegation to the U.N. as well

as a former co-Chairman of the U.S. Commission on Improving the Effectiveness of the U.N., I am convinced that constructive reform of the Security Council is in order.

It is in the world's interest and the U.S. national interest to expand the Security Council. The claim of India, Japan and Germany for a permanent seat is compelling. Likewise, there is a credible case that the Security Council could be modestly expanded on a shared co-country basis as well. For example, Brazil and Mexico might be awarded a seat in which they would alternate terms. In a similar way, Egypt, Nigeria, and South Africa might be given the right to alternate terms with each other, as might the Muslim-majority countries of Indonesia, Pakistan and Bangladesh. Such an approach would expand the Security Council by six seats, involving the granting of new rights to eleven countries.

The case for granting veto power to new full-time members may be credible, but for various reasons one or another of the current five permanent members can be expected to object to the dilution of their own veto authority. Hence, realistically membership but not veto expansion is likely to be the agenda issue subject to serious review at this time.

Expansion of the number of permanent seats under this approach would involve a substantial change in the Security Council, but this change would be more likely to be stabilizing than destabilizing because it would better reflect power balances in the world today and lead to more equitable financial burden-sharing of U.N. actions. It would cause the Council to reflect greater religious and racial diversity and also be composed of a higher percentage of the world's population. Such a new Security Council arrangement would underscore the role of Asia in world affairs as well as reflect a more credible African and Latin American presence.

In any regard, I would hope that the Executive Branch as well as other member countries of the U.N. might give this and other comparable approaches serious consideration.

HONORING SISTER JANET EISNER  
IN RECOGNITION OF HER 25  
YEARS AS PRESIDENT OF EM-  
MANUEL COLLEGE

**HON. MICHAEL E. CAPUANO**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CAPUANO. Mr. Speaker, I rise to honor a remarkable woman, constituent, and friend, Sister Janet Eisner, president of Emmanuel College. Later this month, on April 28, Sister Janet will celebrate 25 years as the college's president.

Founded in 1919 by the Sisters of Notre Dame de Namur, a French order established to educate the daughters of the poor, Emmanuel College, under the leadership of Sister Janet, remains true to that mission. Under her leadership, thousands of young women from disadvantaged backgrounds have studied and received degrees from the college. Though today's students are from a more diverse socioeconomic pool, Emmanuel continues to provide need-based financial aid to more than 70 percent of its students.

Herself a graduate, Sister Janet has embraced many of the schools traditions, while at

the same time, advocated for programs and policies that have addressed the changing needs of the college and its students. In 1979, she became president of a small private liberal arts women's college. Since then, Sister Janet has transformed Emmanuel into a coeducational institution with a greater emphasis on math and science. As a result of her efforts to have Emmanuel embrace the math and science disciplines, the Merck Pharmaceutical Corporation has recently built a major research facility on campus, greatly expanding laboratory access for the college's faculty and students.

Sister Janet believes, as I do, that the future of the New England region depends upon scientific intellectual capital and biomedical innovation and she is determined to ensure that Emmanuel and its students have a place in that future. With that in mind, Sister Janet serves on the Executive Committee of MASCO, the Medical, Academic, and Scientific Community Organization of the Longwood Medical and Academic Area, and has organized her academic neighbors into a formidable consortium, "the Colleges of the Fenway". This consortium includes Simmons College, Wheelock College, Wentworth Institute, Massachusetts College of Art, and the Massachusetts College of Pharmacy and Allied Health Sciences.

In addition to her efforts to maintain a high level of academic excellence at Emmanuel, Sister Janet has preserved and deepened the college's commitment to community service. Freshman Orientation includes an introduction to volunteer opportunities in Boston food pantries, after-school programs, environmental projects, homeless shelters, and hospices. As a result, Emmanuel's students devote countless hours to community service activities such as providing educational tutoring and mentoring to Boston's at-risk children. Last fall, Sister Janet dedicated the Jean Yawkey Center for Community Leadership to focus and support community engagement. The Yawkey Center joins the Carolyn A. Lynch Institute, formed to support urban teachers, in linking Emmanuel students with public and private inner city schools.

Few people have achieved what Sister Janet has achieved, and yet she firmly believes that there is far more to accomplish at the college. Lilies adorn the seal of Emmanuel College, but I think Sister Janet's contributions to Emmanuel are more emblematic of the flower of the Sisters of Notre Dame de Namur: the sunflower. The sunflower is strong, brilliant, and constantly seeking light. I could not think of a more fitting description of Sister Janet's tenure at Emmanuel College. I congratulate Sister Janet for a remarkable 25 years as president of Emmanuel College and wish her continued success in the years to come.

STOP VIOLENCE AGAINST WOMEN  
WEEK AND INTERNATIONAL  
WOMEN'S DAY

**HON. JUANITA MILLENDER-McDONALD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Ms. MILLENDER-McDONALD. Mr. Speaker, Stop Violence Against Women week affords

us the opportunity to recognize the tremendous strides we have made in the decade since the Violence Against Women Act was passed. We have begun to educate our communities. We are slowly changing attitudes about domestic violence from seeing it as a family problem, a private issue that the government should not interfere with to a public interest issue that affects victims, their families and the nation as a whole. We have put in place nationwide, state and local programs that use a multifaceted approach to eradicating this plague on our society.

Violence against women has decreased in the last ten years in the United States, but it is still at epidemic proportions throughout the developing world. It is projected that in 2005 over 1 million women will be the victims of domestic violence. Domestic violence knows no racial, ethnic or socio-economic boundaries. Its social and economic consequences are incalculable.

Women who are the victims of domestic violence, and nearly one in three women experiences at least one physical assault by an intimate partner in her adult lifetime, are more likely to miss work and under perform, affecting their ability to support themselves and their children. Children exposed to domestic violence are more likely to be the victims themselves and are more likely to perpetuate this behavior when they are grown. The detrimental affects are far-reaching and severe.

Going forward we need to build on the foundation put in place over the past decade. We need to promote awareness. We need to provide viable alternatives. We need to make sure the world knows that in the United States we do not tolerate violence against women.

As we celebrate International Women's Day this week, we focus our attention on the challenges women face abroad. As cultural attitudes about women change across the world, foreign governments must also set the stage and take affirmative steps to protect women from violence. The increasing number of murders and rapes is an especially critical problem in the developing world. We must let our voices be heard: America and the global community will no longer tolerate these crimes against women. We urge foreign governments to hear our call.

We also need to combat the international trafficking of women and children. Between six hundred and eight hundred thousand people are trafficked across international borders. Eighty percent of these victims are women and up to fifty percent are minors. These victims are bought and sold daily and forced to perform unspeakable acts for others' financial gain. They are exposed to torture, sexual violence, fatal sexually transmitted diseases. This is modern-day slavery, this is the epitome of violence against women and it has to stop.

I want to thank Lifetime Television and others involved with Stop Violence Against Women Week. The more we talk about these problems, the closer we get to viable solutions.

A BILL TO ALLOW TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES

**HON. WALLY HERGER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. HERGER. Mr. Speaker, I rise today to introduce legislation entitled the "Public Good IRA Rollover Act." I am introducing this bill to encourage increased charitable giving by correcting certain provisions in the tax code related to Individual Retirement Accounts (IRAs). Americans should have the opportunity to make tax-free charitable contributions directly from their IRA accounts.

This legislation is designed to allow individuals age 59½ or older to contribute amounts currently held in IRA accounts directly to qualified charities without having to first recognize the income for tax purposes and then take a charitable deduction. This legislation will give individuals more freedom to allocate their resources as they see fit while providing badly needed funding for charities, churches, museums, universities, and many other nonprofit organizations.

The IRA was intended to encourage individuals to save for retirement, but due to a strong economy and an increase in asset values, many individuals have more funds in these accounts that they anticipated or now need to retire comfortably. Thus, it is very common for retirees to donate some of their wealth to charities and, in some cases, that wealth is held in an IRA.

Individuals may withdraw funds from an IRA without incurring an early withdrawal penalty once they reach age 59½. Currently, however, these IRA withdrawals are generally taxed as income, even if the individual donates the money to charity. Many donors are reluctant to make charitable contributions from their IRA assets because of the additional tax costs they will incur. Congress has exempted withdrawals from IRA accounts under certain circumstances, such as to finance the purchase of a home or a college education. Congress should also make it possible for older Americans to support charities by allowing withdrawals from their IRA assets without suffering adverse tax consequences.

This legislation also addresses other obstacles to charitable giving created by the current tax code. A taxpayer could readily recognize the IRA withdrawal income for tax purposes and, after making a charitable gift, take a charitable tax deduction. Unfortunately, in many cases under current law such a simple arrangement results in a loss of some portion of the charitable deduction. For example, charitable contributions are subject to the itemized deduction "haircut" under which certain taxpayers lose a portion of their charitable deduction.

It is very difficult to estimate the amount of capital trapped by the current tax and rollover rules, and thus not available to our nation's charities. According to one report, there is over \$1 trillion held in IRA accounts. If only 1 percent of this would be donated to charity but for the tax problems associated with charitable rollovers, this represents a \$10 billion loss of resources to these organizations that do so much good.

I will give just one example from my state of California, where universities and colleges receive tremendous support from private individuals. These donations and financial gifts are critical to providing the funding needed to maintain quality higher education and keep it available and affordable. In the UC system, private contributions provide more than \$369 million for individual university departments, \$291 million for research, \$225 million for campus improvements, and \$84 million for scholarships and student support services. In addition, planned gifts such as charitable remainder trusts, gift annuities, and pooled income funds are a tremendously valuable source of funding for the University of California System. This legislation encourages more charitable gifts such as this, which will greatly benefit universities and many other charities. This is sound and greatly needed legislation. Similar legislation has consistently received strong bi-partisan support in both chambers of Congress. This bill was part of the CARE Act that passed the House last year. In addition, President Bush has endorsed this proposal and it was included in the Administration's budget request for FY2005 and FY2006.

This legislation is crucial to many local and national charities, including American Red Cross and the YMCA. Associations that represent thousands of our nation's charities and nonprofit professionals, such as the Council for Advancement and Support of Education, the National Committee on Planned Giving, INDEPENDENT SECTOR, and the Association of Fundraising Professionals, hear daily from their members whose donors want to make gifts from their IRA assets.

I look forward to working with my colleagues to advance this legislation to increase private giving to charitable organizations by removing the disincentive currently in the tax code. We must continue to support proposals such as this that strengthen and increase resources for the nonprofit sector, a sector that plays such an important role in lives of millions of Americans every day. I know this legislation is needed in California and in your local communities as well. I hope my colleagues will join me in passing this important legislation.

TRIBUTE TO THE ORDER SONS OF ITALY IN AMERICA ON THEIR 100TH ANNIVERSARY

**HON. BENJAMIN L. CARDIN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 13, 2005*

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Order Sons of Italy in America in celebration of their 100th anniversary in June 2005. The OSIA is the largest and longest established organization for men and women of Italian heritage in the United States.

Established in 1905 as a mutual aid society for early Italian immigrants, the OSIA has grown to more than 100,000 members nationwide and 2,500 in Maryland. The OSIA is dedicated to preserving Italian-American traditions and culture among the estimated 26 million people of Italian descent living in the United States. I want to commend S. Joseph Avara of Baltimore, past president of the OSIA

who did so much to bring financial stability and order to the Maryland Lodge.

The OSIA also is a charitable organization, raising millions of dollars for Alzheimer's Disease and Cooley's Anemia, a severe blood disorder that affects those of Mediterranean descent. In addition, the OSIA has also raised a significant amount of money for the March of Dimes.

Italian-Americans have made enormous contributions to our nation—from serving in the armed forces to achievements in science and medicine to public service. I urge my colleagues in the U.S. House of Representatives to join me in saluting the OSIA for its work to ensure that all Americans appreciate the contributions made to our nation by the Italian-American community.

CONGRATULATING MRS. ASHLEY ROTHBARD BERK, RECIPIENT OF THE 2004 PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

**HON. SCOTT GARRETT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. GARRETT of New Jersey. Mr. Speaker, today I extend congratulations and thanks to Mrs. Ashley Rothbard Berk, a teacher at Travell Elementary School in Ridgewood, New Jersey. Mrs. Berk was selected from among 600 nominees to be a recipient of the prestigious 2004 Presidential Award for Excellence in Mathematics and Science Teaching.

The Presidential Award for Excellence in Mathematics and Science Teaching was established in 1983 to recognize the outstanding science and mathematics teachers, kindergarten through 12th grade, in each state and the four U.S. jurisdictions. Today, the White House award is recognized as the Nation's highest commendation for elementary and secondary math and science teachers.

After an initial selection process at the state level, a national panel of distinguished scientists, mathematicians and educators reviews the extensive application packets of the state finalists and recommends the teachers who will receive a Presidential award. Mrs. Berk is the sole awardee from New Jersey.

Mrs. Berk was recognized for teaching her students fractions, decimals and percentages using a technique to reach different types of learners: the visual, auditory, verbal and kinesthetic. She developed the method in an effort to make sure students in her fifth-grade class were operating at their optimum learning ability.

Mrs. Berk says she fell in love with teaching right away, and her devotion to ensuring her students are learning is evidenced in this award. The award also brings more than prestige to the winner; as an awardee, Mrs. Berk also receives a \$10,000 grant for her school.

I want to congratulate Mrs. Berk of Travell Elementary School for being selected for this prestigious honor. She is a credit to New Jersey and a credit to our many outstanding educators.

To paraphrase Oliver Wendell Holmes, the greatest teacher makes others believe in greatness, and they leave a lasting mark on the lives around them. Today, I am proud and

honored to join in the applause for one of the nation's great teachers—Mrs. Ashley Berk. We are grateful for your dedication to providing New Jersey children with an outstanding education.

COMMEMORATING THE RETIREMENT OF JOHN W. MACK, PRESIDENT OF THE LOS ANGELES URBAN LEAGUE

**HON. JUANITA MILLENDER-McDONALD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to pay tribute to a national trailblazer and dynamic American public servant, Mr. John W. Mack, who will be retiring as the President of the Los Angeles Urban League.

John W. Mack has served as President of the Los Angeles Urban League since August of 1969. He began his career with the Urban League in Flint, Michigan in 1964 and was appointed Executive Director in 1965. Prior to heading the Los Angeles Urban League, he served on the Urban League's National staff for six months during the Urban League Presidency of Whitney Young in Washington, D.C. John was a leader in the 1960 student civil rights movement in Atlanta—Co-Founder and Vice Chairperson of the Committee on the Appeal for Human Rights. He earned his Bachelor of Science Degree in Applied Sociology from North Carolina A&T State University. He holds a Master's Degree from Atlanta University.

John Mack has been fighting on the frontlines for decades in the battle to secure equal opportunities for all Americans from all walks of life. Under John Mack's leadership, the Los Angeles Urban League has become one of the most successful non-profit community organizations in Los Angeles with an annual budget of \$20 million. The Los Angeles Urban League serves over 100,000 individuals each year and operates a number of innovative, result-orientated job training, job placement, education, academic tutorial, growth development and business development programs. Under his leadership, the Los Angeles Urban League has utilized state of the art computer technology to prepare citizens for careers in the 21st Century Global Economy. John Mack understood that in order for America to maintain its standing as the global economic leader, its workforce must be the best trained, best educated and best equipped in order to compete on the world stage.

John Mack has also been a visionary with respect to ensuring that civil and human rights are neither compromised nor violated in Los Angeles, California and across the Nation. He is a highly respected advocate for equal opportunities in education, law enforcement and economic empowerment for all Americans. He has been a drum major for justice and equality and a bridge builder across all racial, cultural, economic, gender and religious lines.

I am proud to call John W. Mack my friend. His demonstrated commitment to improving the quality of life and improving economic opportunities for the citizens of Los Angeles, California and the Nation has been exemplary and noteworthy. I have found his insights to be thoughtful and genuinely compassionate.

The Los Angeles Urban League, the National Urban League, California and the Nation have benefited tremendously from the vision, commitment and public service of John W. Mack.

TAX REFORM—CONSTANT CHANGE IN THE TAX CODE AND THE PROBLEMS OF THE "TEMPORARY FIX"

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. CROWLEY. Mr. Speaker, I will give the Republicans credit, they have made a lot of noise over the past few years about lowering taxes, lifting the burden off of working and middle class families and improving America's tax structure for businesses and households. But this is blatantly untrue.

I salute Mr. HOYER for organizing this discussion tonight to let the American public know the truth about the Republicans and their tax schemes. For too long Democrats have allowed the Republican deception to continue . . . until now. Just as the previous speakers have stated, the American tax code and the tax policies have failed this country, they have failed working people, middle income families, the working poor. I also want to mention how these flawed Republican tax policies have also weakened the competitiveness of America's small businesses, entrepreneurs and corporations.

These are the people that create the jobs that keep America working. The business community, which represents the true job creators of America, has had to deal with ever constant changes to the tax code, and so-called temporary fixes at the last minute. These leave American businesses and employers not able to plan for the future as they have no idea what the tax code will look like.

Rather the Republican's business tax code plan is not about reform or simplification but rather can be summed up as the "Full Employment for Accounts Act." Republican leaders repeatedly have talked about the need to make the tax system simpler and fairer. In fact, Speaker HASTERT himself stated in December that America's tax system is quote "too complicated; it also hurts our Nation's competitiveness." He is right—but his Republican caucus has done nothing to address this issue. In fact, their actions show just the opposite.

The Federal income tax code has grown from 500 pages in 1913 to 45,662 in 2001 when Mr. Bush was elected to 25 volumes today. The 2001 tax law added 214 million hours alone to the paperwork burden for small business people. They should be creating and investing and producing not figuring out their more and more complicated tax forms.

Individuals, businesses, tax-exempt public and private entities spend nearly 6 billion hours complying with the tax code. And they call this simplification and reform. And this burden falls heaviest on our small business people and self-employed.

IRS estimates that the average taxpayer with a self-employed status has the greatest compliance burden in terms of preparation—59 hours. Small businesses overpaid their taxes by \$18 billion in 2000 and 2001 because

of return errors, a GAO report found in 2002. Tens of thousands of farmers overpaid taxes by an average of more than \$500 because they failed to take advantage of income averaging, according to a Treasury Department report in March 2004.

Despite repeated promises, no action was ever taken on fundamental reform of our tax system. Instead, the Republicans enacted legislation that dramatically increased the complexity of our income tax system. The Republican tax legislation used budget gimmicks, such as phase-ins, temporary provisions and overall sunsets, to hide the cost of their tax legislation.

Today, while the Republicans hail their so called "estate tax" victory—in fact, what they

have done is increase the estate tax for hundreds of thousands of small businesses by repealing the "step up in basis" and substituting in "carry over basis" rules that preserve the tax on increases in value of estates before death—hence making recipients now pay a capital gains tax on inherited materials, that people are now exempt from. So the death tax actually grows stronger under the sham Republican bill they passed today. And today not only will make their lives more difficult and their taxes more complicated, but it also makes their taxes increase. As a result, we have a tax system that is quite unstable, leaving taxpayers uncertain about the law in the future.

Business cannot plan for the future. Congress must end these gimmicks. It is time for Congress to make permanent the Research and Development Tax Credit. We must immediately provide a permanent tax credit for the health insurance expenses for the self-employed. We must end these tax loopholes, gimmicks and temporary tax solutions—as these are actually not helpful to businesses and entrepreneurs.

We need real tax reform and real tax simplification. Something that the Republicans haven't been able to deliver 10 years. It's time for a real change in our tax law, by providing a real change in American leadership.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Wednesday, April 13, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 14

9:30 a.m.

Armed Services

To hold hearings to examine implementation by the Department of Defense of the National Security Personnel System.

SR-325

Judiciary

Business meeting to consider S. 378, to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, S. 119, to provide for the protection of unaccompanied alien children, S. 629, to amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems, S. 555, to amend the Sherman Act to make oil-producing and exporting cartels illegal, and the nominations of Thomas B. Griffith, of Utah, and Janice R. Brown, of California, each to be a United States Circuit Judge for the District of Columbia Circuit, Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina, and James C. Dever III, to be United States District Judge for the Eastern District of North Carolina.

SD-226

Appropriations

Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Housing and Urban Development.

SD-138

Joint Economic Committee

To hold hearings to examine the current economic outlook for April.

2212 RHOB

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the implementation of the Terrorism Risk Insurance Program.

SD-538

Commerce, Science, and Transportation

Business meeting to consider S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, S. 432, to establish a digital and wireless network technology program, the proposed Surface Transportation Safety Improvement Act of 2005, and the nominations of a National Oceanic and Atmospheric Administration Promotion List, Coast Guard Promotion List, and Coast Guard Promotion List.

SR-253

Finance

To hold hearings to examine how to solve the tax gap.

SD-G50

Health, Education, Labor, and Pensions

To hold hearings to examine lifelong education opportunities.

SD-430

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold oversight hearings to examine a review of the Unfunded Mandates Reform Act (UMRA), focusing on the impact of the UMRA has had on Federal, state, and local governments and explore if changes are necessary to strengthen the law's procedures, definitions, and exclusions.

SD-342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.

345 CHOB

10:30 a.m.

Intelligence

To hold hearings to examine the nomination of Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence.

SH-216

11 a.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine problems experienced by unregistered religious communities operating within the Russian Federation.

2200 RHOB

2 p.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of Marketing and Regulatory Programs, the Office of Food, Nutrition, and Consumer Services, and the Office of Food Safety and Inspection Service, all of the Department of Agriculture.

SD-192

Appropriations

Energy and Water, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Nuclear Security Administration.

SD-124

Homeland Security and Governmental Affairs

To hold hearings to examine the ongoing need for comprehensive postal reform.

SD-342

2:30 p.m.

Armed Services

Airland Subcommittee

To hold hearings to examine Air Force acquisition oversight in review of the Defense Authorization Request for Fiscal Year 2006.

SR-232A

Judiciary

Immigration, Border Security and Citizenship Subcommittee

Terrorism, Technology and Homeland Security Subcommittee

To hold joint hearings to examine deportation and related issues relating to strengthening interior enforcement.

SD-226

3 p.m.

Intelligence

Closed business meeting to consider pending calendar business.

SH-219

APRIL 19

10 a.m.

Energy and Natural Resources

To hold hearings to examine offshore hydrocarbon production and the future of alternate energy resources on the outer Continental Shelf, focusing on recent technological advancements made in the offshore exploration and production of traditional forms of energy, and the future of deep shelf and deepwater production; enhancements in worker safety, and steps taken by the offshore oil and gas industry to meet environmental challenges.

SD-366

Foreign Relations

To hold hearings to examine the Near East and South Asian experience relating to combating terrorism through education.

SD-419

Health, Education, Labor, and Pensions

To hold hearings to examine S. 334, to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs.

SD-430

10:15 a.m.

Veterans' Affairs

Business meeting to consider the nomination of Jonathan Brian Perlin, of Maryland, to be Under Secretary of Veterans Affairs for Health; to be followed by a hearing on "Back from the Battlefield, Part II: Seamless Transition to Civilian Life".

SR-418

2:30 p.m.

Judiciary

Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine SBC/ATT and Verizon/MCI mergers, focusing on remaking the telecommunication industry.

SD-226



- Energy and Natural Resources  
Water and Power Subcommittee  
To hold hearings to examine S. 166, to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, S. 251, 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 Sub-basins in Oregon, S. 310, to direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada, S. 519, to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and S. 592, to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming.  
SD-366
- 3 p.m.  
Banking, Housing, and Urban Affairs  
To hold hearings to examine proposals to reform the regulation of the Housing Government Sponsored Enterprises.  
SD-538
- Armed Services  
SeaPower Subcommittee  
To hold hearings to examine the United States Marine Corps ground and rotary wing programs and seabasing in review of the Defense Authorization Request for Fiscal Year 2006.  
SR-232A
- APRIL 20
- 9:30 a.m.  
Environment and Public Works  
To hold hearings to examine the nominations of Gregory B. Jaczko, of the District of Columbia, and Peter B. Lyons, of Virginia, each to be a Member of the Nuclear Regulatory Commission.  
SD-406
- 10 a.m.  
Banking, Housing, and Urban Affairs  
To continue hearings to examine proposals to reform the regulation of Housing Government-Sponsored Enterprises.  
SD-538
- Health, Education, Labor, and Pensions  
Education and Early Childhood Development Subcommittee  
To hold hearings to examine the Federal role in helping parents of young children.  
SD-430
- Small Business and Entrepreneurship  
To hold hearings to examine the small business health care crisis, focusing on alternatives for lowering costs and covering the uninsured.  
SR-428A
- 2 p.m.  
Armed Services  
Readiness and Management Support Subcommittee  
To hold hearings to examine the readiness of military units deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom in review of the Defense Authorization Request for fiscal year 2006.  
SR-222
- 2:30 p.m.  
Judiciary  
Terrorism, Technology and Homeland Security Subcommittee  
To hold hearings to examine a review of the material support to Terrorism Prohibition Improvements Act.  
SD-226
- APRIL 21
- 9:30 a.m.  
Foreign Relations  
To hold hearings to examine the anti-corruption strategies of the African Development Bank, Asian Development Bank and European Bank on Reconstruction and Development.  
SD-419
- 10 a.m.  
Budget  
To hold hearings to examine structural deficits and budget process reform.  
SH-216
- Health, Education, Labor, and Pensions  
To hold hearings to examine Association Health Plans.  
SD-430
- Veterans' Affairs  
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.  
345 CHOB
- 2:30 p.m.  
Judiciary  
Intellectual Property Subcommittee  
To hold hearings to examine the patent system today and tomorrow.  
SD-226
- APRIL 26
- 9:30 a.m.  
Foreign Relations  
To hold hearings to examine the Millennium Challenge Corporation's global impact.  
SD-419
- 10 a.m.  
Health, Education, Labor, and Pensions  
Retirement Security and Aging Subcommittee  
To hold hearings to examine pensions.  
SD-430
- 2:30 p.m.  
Energy and Natural Resources  
Public Lands and Forests Subcommittee  
To hold hearings to examine the preparedness of the Department of Agriculture and the Interior for the 2005 wildfire season, including the agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies ability to deal with the upcoming fire season.  
SD-366
- APRIL 27
- 9:30 a.m.  
Indian Affairs  
To hold oversight hearings to examine regulation of Indian gaming.  
SR-485
- 10 a.m.  
Health, Education, Labor, and Pensions  
Business meeting to consider pending calendar business.  
SD-430
- APRIL 28
- 10 a.m.  
Health, Education, Labor, and Pensions  
To hold hearings to examine Higher Education Act.  
SD-430
- MAY 11
- 9:30 a.m.  
Judiciary  
To hold an oversight hearing to examine the Federal Bureau of Investigation's translation program.  
SD-226
- SEPTEMBER 20
- 10 a.m.  
Veterans' Affairs  
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.  
345 CHOB
- CANCELLATIONS
- APRIL 19
- 10 a.m.  
Health, Education, Labor, and Pensions  
Retirement Security and Aging Subcommittee  
To hold hearings to examine pensions.  
SD-430
- APRIL 28
- 10 a.m.  
Foreign Relations  
To hold hearings to examine U.S. Assistance to Sudan and the Darfur Crisis.  
SH-216
- POSTPONEMENTS
- APRIL 14
- 10 a.m.  
Energy and Natural Resources  
To hold hearings to examine S. 388, to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, to provide for the establishment of a national greenhouse gas registry.  
SD-366

# Daily Digest

## HIGHLIGHTS

The House passed H.R. 8, Death Tax Repeal Permanency Act of 2005. House Committees ordered reported 24 sundry measures, including Energy proposals.

## Senate

### Chamber Action

*Routine Proceedings, pages S3505–S3607*

**Measures Introduced:** Eleven bills and one resolution were introduced, as follows: S. 769–779, and S. Res. 106. **Page S3555**

#### Measures Reported:

Special Report entitled “The Role of Professional Firms in the U.S. Tax Shelter Industry”. (S. Rept. No. 109–54)

Special Report entitled “Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling”. (S. Rept. No. 109–55)

S. 362, to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, with an amendment. (S. Rept. No. 109–56)

S. 39, to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration. (S. Rept. No. 109–57)

S. 148, to establish a United States Boxing Commission to administer the Act. (S. Rept. No. 109–58) **Page S3555**

#### Measures Passed:

**Disaster Mitigation Payments:** Committee on Finance was discharged from further consideration of H.R. 1134, to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments, after agreeing to the following amendment proposed thereto:

Sessions (for Baucus) Amendment No. 411, in the nature of a substitute. **Pages S3604–05**

**Congratulating University of Denver Men’s Hockey Team NCAA Champions:** Senate agreed to S. Res. 106, congratulating the University of Denver Pioneer’s men’s hockey team, 2005 National Collegiate Athletic Association Division I Hockey Champions. **Pages S3605–06**

**Supplemental Appropriations:** Senate continued consideration of H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, taking action on the following amendments proposed thereto: **Pages S3513–48**

#### Adopted:

Durbin Amendment No. 356, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred. (By 39 yeas to 61 nays (Vote No. 91), Senate earlier failed to table the amendment.) **Pages S3518–20**

Kerry Amendment No. 333, to extend the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty. **Pages S3520–21**

Kerry Amendment No. 334, to increase the military death gratuity to \$100,000, effective with respect to any deaths of members of the Armed Forces

on active duty after October 7, 2001. (By 25 yeas to 75 nays (Vote No. 92), Senate earlier failed to table the amendment.) **Pages S3517–18, S3521–22**

By 61 yeas to 38 nays (Vote No. 94), Cornyn/Feinstein Amendment No. 372, to express the sense of the Senate that Congress should not delay enactment of critical appropriations necessary to ensure the well-being of the men and women of the United States Armed Forces fighting in Iraq and elsewhere around the world, by attempting to conduct a debate about immigration reform while the supplemental appropriations bill is pending on the floor of the United States Senate. **Pages S3523–32**

Stevens/Inouye Amendment No. 386, to provide for an increase in the amount appropriated for the Intelligence Community Management Account. **Page S3532**

Cochran (for McConnell) Amendment No. 401, of a technical nature. **Page S3542**

Cochran (for McConnell) Amendment No. 402, to address the avian influenza virus in Asia. **Page S3542**

Cochran (for Lugar/Biden) Amendment No. 403, to provide additional amounts for diplomatic and consular programs and reduce the amount available for the Global War on Terror Partners Fund. **Page S3542**

Cochran (for Leahy) Amendment No. 404, to modify language in the bill relating to environmental recovery activities in tsunami affected countries. **Page S3542**

Cochran (for Leahy) Amendment No. 405, to require five day prior notification to the Committees on Appropriations for tsunami recovery and reconstruction funds. **Page S3542**

Rejected:

By 27 yeas to 71 nays (Vote No. 93), Byrd Amendment No. 367, to reduce by \$36,000,000 the amount appropriated for “Military Construction, Army”, with the amount of the reduction to be allocated to funds available under that heading for the Camp 6 Detention Facility at Guantanamo Bay, Cuba. **Pages S3515–17, S3522–23**

Pending:

Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants. **Pages S3532–40, S3541–42**

Feinstein Amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report. **Pages S3540–41**

Bayh Amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation. **Pages S3542–48**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m., on Thursday, April 14, 2005. **Pages S3606–07**

**Nominations Confirmed:** Senate confirmed the following nomination:

Michael D. Griffin, of Virginia, to be Administrator of the National Aeronautics and Space Administration. (Prior to this action, Committee on Commerce, Science, and Transportation was discharged from further consideration.) **Page S3607**

**Nominations Received:** Senate received the following nomination:

Robert J. Portman, of Ohio, to be United States Trade Representative, with the rank of Ambassador. **Page S3607**

**Nominations Discharged:** The following nominations were discharged from further committee consideration and placed on the Executive Calendar:

Daniel R. Levinson, of Maryland, to be Inspector General, Department of Health and Human Services, which was sent to the Senate on January 24, 2005, from the Senate Committee on Homeland Security and Governmental Affairs.

Howard J. Krongard, of New Jersey, to be Inspector General, Department of State, which was sent to the Senate on January 24, 2005, from the Senate Committee on Homeland Security and Governmental Affairs. **Page S3607**

**Messages From the House:** **Page S3552**

**Measures Referred:** **Page S3552**

**Executive Communications:** **Pages S3552–55**

**Executive Reports of Committees:** **Page S3555**

**Additional Cosponsors:** **Pages S3555–57**

**Statements on Introduced Bills/Resolutions:** **Pages S3557–66**

**Additional Statements:** **Pages S3550–52**

**Amendments Submitted:** **Pages S3566–S3602**

**Authority for Committees to Meet:** **Pages S3602–03**

**Privilege of the Floor:** **Page S3603**

**Record Votes:** Four record votes were taken today. (Total—94) **Page S3520, S3521, S3523, S3532**

**Adjournment:** Senate convened at 9:30 a.m., and adjourned at 8:11 p.m., until 9:30 a.m., on Thursday, April 14, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S3607.)

## Committee Meetings

(Committees not listed did not meet)

### APPROPRIATIONS: LEGISLATIVE BRANCH

*Committee on Appropriations:* Subcommittee on Legislative Branch concluded a hearing to examine proposed budget estimates for fiscal year, after receiving testimony in behalf of funds for their respective activities from Emily Reynolds, Secretary of the Senate; and Alan Hantman, Architect of the Capitol.

### APPROPRIATIONS: DEPARTMENT OF AGRICULTURE

*Committee on Appropriations:* Subcommittee on Agriculture, Rural Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2006, after receiving testimony in behalf of funds for their respective activities from Keith Collins, Chief Economist, J.B. Penn, Under Secretary for Farm and Foreign Agricultural Services, Mark Rey, Under Secretary for Natural Resources and Environment, Gilbert Gonzalez, Acting Under Secretary for Rural Development, and Joseph Jen, Under Secretary for Research, Education, and Economics, all of the Department of Agriculture.

### DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Readiness and Management Support concluded a hearing to examine high risk areas in the management of the Department of Defense in review of the Defense Authorization Request for fiscal year 2006, after receiving testimony from David M. Walker, Comptroller General of the United States, Government Accountability Office; Michael W. Wynne, Acting Under Secretary of Defense for Acquisition, Technology, and Logistics; and Robert J. Henke, Principal Deputy Under Secretary of Defense(Comptroller).

### DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Personnel concluded a hearing to examine active and Reserve military and civilian personnel programs in review of the Defense Authorization Request for fiscal year 2006, after receiving testimony from Thomas F. Hall, Assistant Secretary of Defense for Reserve Affairs; Lieutenant General H. Steven Blum, ARNG, Chief, National Guard Bureau; Lieutenant General Roger C. Schultz, ARNG, Director, Army National Guard; Lieutenant General Daniel James, III, ANG, Director, Air National Guard; Lieutenant General James R. Helmlly, USAR, Chief, Army Reserve; Vice Admiral John G. Cotton, USNR, Chief, Naval Reserve; Lieutenant General Dennis M. McCarthy, USMCR, Commander, Marine Forces Reserve; and

Lieutenant General John A. Bradley, USAFR, Chief, Air Force Reserve.

### FEDERAL HOME LOAN BANK SYSTEM

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine the Federal Home Loan Bank System, focusing on changes and current issues affecting the system, including the promotion of housing and community development generally by making loans, also known as advances, to member financial institutions, after receiving testimony from Thomas J. McCool, Managing Director, Financial Markets and Community Investment, Government Accountability Office; George L. Engelke, Jr., Astoria Federal Savings and Loan Association, Lake Success, New York, on behalf of the Federal Home Loan Bank of New York; Paul Clabuesch, Thumb National Bank and Trust Company, Pigeon, Michigan, on behalf of the Federal Home Loan Bank of Indianapolis; John Edward Norris, III, Plantation Federal Bank, Pawleys Island, South Carolina; Alex J. Pollock, American Enterprise Institute, Washington, D.C.; and Martin Eakes, Self-Help Credit Union and Center for Responsible Lending, Durham, North Carolina.

### SUBCOMMITTEE MEMBERSHIP

*Committee on Commerce, Science, and Transportation:* Committee announced the following subcommittee assignments:

*Subcommittee on Aviation:* Senators Burns (Chair), Stevens, McCain, Lott, Hutchison, Snowe, Smith, Ensign, Allen, Sununu, DeMint, Rockefeller, Inouye, Dorgan, Boxer, Cantwell, Lautenberg, Nelson (FL), Nelson (NE), and Pryor.

*Subcommittee on Surface Transportation and Merchant Marine:* Senators Lott (Chair), Stevens, McCain, Burns, Hutchison, Snowe, Smith, Allen, Sununu, Vitter, Inouye, Rockefeller, Dorgan, Boxer, Cantwell, Lautenberg, Nelson (NE), and Pryor.

*Subcommittee on Science and Space:* Senators Hutchison (Chair), Stevens, Burns, Lott, Ensign, Allen, Sununu, Nelson (FL), Rockefeller, Dorgan, Nelson (NE), and Pryor.

*Subcommittee on Fisheries and the Coast Guard:* Senators Snowe (Chair), Stevens, Lott, Smith, Sununu, Vitter, Cantwell, Inouye, Kerry, and Lautenberg.

*Subcommittee on Trade, Tourism, and Economic Development:* Senators Smith (Chair), Stevens, McCain, Burns, Ensign, Allen, Sununu, DeMint, Vitter, Dorgan, Inouye, Rockefeller, Kerry, Cantwell, Lautenberg, Nelson (FL), Nelson (NE), and Pryor.

*Subcommittee on Technology, Innovation, and Competitiveness:* Senators Ensign (Chair), Stevens, Burns, Lott, Hutchison, Allen, Sununu, DeMint, Kerry, Inouye, Rockefeller, Dorgan, Nelson (FL), and Pryor.

*Subcommittee on Consumer Affairs, Product Safety, and Insurance:* Senators Allen (Chair), Stevens, Burns, DeMint, Vitter, Pryor, Inouye, and Boxer.

*Subcommittee on Global Climate Change and Impacts:* Senators Vitter (Chair), Stevens, McCain, Snowe, Lautenberg, and Kerry.

*Subcommittee on Disaster Prevention and Prediction:* Senators DeMint (Chair), Stevens, Smith, Vitter, Nelson (NE), Cantwell, and Nelson (FL).

*National Ocean Policy Study:* Senators Sununu (Chair), Stevens, Lott, Hutchison, Snowe, Smith, DeMint, Vitter, Boxer, Inouye, Kerry, Cantwell, and Lautenberg.

## JUNK FAX TRANSMISSIONS PROHIBITION

*Committee on Commerce, Science, and Transportation:* Subcommittee on Trade, Tourism, and Economic Development concluded a hearing to examine S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, after receiving testimony from Steven T. Kirsch, Propel Software Corporation, San Jose, California.

## NOMINATION

*Committee on Energy and Natural Resources:* Committee ordered favorably reported the nomination of David Garman, of Virginia, to be Under Secretary of Energy.

## BUSINESS MEETING

*Committee on Environment and Public Works:* Committee ordered favorably reported the following business items:

S. 728, to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, with amendments; and

The nominations of Stephen L. Johnson, of Maryland, to be Administrator, and Luis Luna, of Maryland, to be Assistant Administrator for Administration and Resource Management, both of the Environmental Protection Agency, John Paul Woodley, Jr., of Virginia, to be Assistant Secretary of the Army for Civil Works, Major General Don T. Riley, United States Army, to be a Member and President of the Mississippi River Commission, Brigadier General William T. Grisoli, United States Army, to be a Member of the Mississippi River Commission, and D. Michael Rappoport, of Arizona, and Michael Butler, of Tennessee, each to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

## FREE TRADE AGREEMENT

*Committee on Finance:* Committee held a hearing to examine the U.S.-Central America-Dominican Republic Free Trade Agreement, focusing on textiles, rice, sugar, worker rights and labor standards, environmental provisions, and the World Trade Organization (WTO), receiving testimony from Peter F. Allgeier, Acting U.S. Trade Representative; Lochiel Edwards, Montana Grain Growers Association, Big Sandy, on behalf of sundry organizations; Terry Harris, Stuttgart, Arkansas, on behalf of the USA Rice Federation and the U.S. Rice Producers Association; Jack Roney, American Sugar Alliance, Arlington, Virginia; Mark Berling, Kraft Foods, Inc., Northfield, Illinois; John J. Castellani, Business Roundtable, Washington, DC.; J. Keith Crisco, Asheboro Elastics Corporation, Asheboro, North Carolina; Patricia A. Forkan, Humane Society International, Gaithersburg, Maryland; and Mark Levinson, UNITE HERE!, New York, New York.

Hearing recessed subject to the call.

## NOMINATIONS:

*Committee on Foreign Relations:* Committee concluded a hearing to examine the nominations of Daniel Fried, of the District of Columbia, to be an Assistant Secretary of State for European Affairs, and Robert Joseph, of Virginia, to be Under Secretary of State for Arms Control and International Security, after the nominees testified and answered questions in their own behalf.

## BUSINESS MEETING

*Committee on Homeland Security and Governmental Affairs:* Committee ordered favorably reported the following business items:

S. 21, to provide for homeland security grant coordination and simplification, with an amendment in the nature of a substitute;

S. 335, to reauthorize the Congressional Award Act;

S. 494, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel; and

S. 501, to provide a site for the National Women's History Museum in the District of Columbia.

## INDIAN HEALTH

*Committee on Indian Affairs:* Committee held an oversight hearing to examine the status of Indian health care issues, focusing on health disparities, access to health care, Community Health Aide Program

(CHAP), Urban Indian health, Indian self-determination, mental health and substance abuse services, and related provisions of the Medicare Modernization Act, receiving testimony from Charles W. Grim, Director, Gary J. Hartz, Director, Office of Environmental Health and Engineering, W. Craig Vanderwagen, Acting Chief Medical Officer, all of the Indian Health Service, and A. Kathryn Power, Director, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, all of the Department of Health and Human Services; H. Sally Smith, National Indian Health Board, and Georgiana Ignace, National Council on Urban Indian Health, both of Washington, D.C.; Rachel A. Joseph, Lone Pine Paiute Shoshone Reservation, Lone Pine, California; and Anslem Roanhorse, Jr., The Navajo Nation Division of Health, Window Rock, Arizona.

Hearing recessed subject to the call.

### SECURING ELECTRONIC PERSONAL DATA

*Committee on the Judiciary:* Committee concluded a hearing to examine securing electronic personal data, focusing on striking a balance between privacy and commercial and governmental use, focusing on laws currently applicable to resellers of consumer information, commonly known as “data brokers”, after receiving testimony from Deborah Platt Majoras, Chairman, Federal Trade Commission; Chris Swecker, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, Department of Justice; Larry D. Johnson, Special Agent in

Charge, Criminal Investigative Division, Secret Service, Department of Homeland Security; Vermont Attorney General William H. Sorrell, Montpelier, on behalf of the National Association of Attorneys General; Douglas C. Curling, ChoicePoint Inc., Alpharetta, Georgia; Kurt P. Sanford, LexisNexis Group, Miamisburg, Ohio; Jennifer T. Barrett, Acxiom Corporation, Little Rock, Arkansas; James X. Dempsey, Center for Democracy and Technology, Washington, D.C.; and Robert Douglas, PrivacyToday.com, Steamboat Springs, Colorado.

### FEDERAL AND STATE MARRIAGE INITIATIVES

*Committee on the Judiciary:* Subcommittee on the Constitution, Civil Rights and Property Rights concluded a hearing to examine judicial activism regarding federal and state marriage protection initiatives, focusing on the Defense of Marriage Act, after receiving testimony from Lynn D. Wardle, Brigham Young University J. Reuben Clark Law School, Provo, Utah; Gerard V. Bradley, University of Notre Dame Law School, Notre Dame, Indiana; and Kathleen Moltz, Wayne State University School of Medicine, Detroit, Michigan.

### INTELLIGENCE

*Select Committee on Intelligence:* Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

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## House of Representatives

### *Chamber Action*

**Measures Introduced:** 41 public bills, H.R. 1587–1627; 1 private bill, H.R. 1628 and; 3 resolutions, H.J. Res. 41; H. Con. Res. 131, and H. Res. 212 were introduced. **Pages H1967–69**

**Additional Cosponsors:** **Pages H1969–70**

**Reports Filed:** Reports were filed today as follows:

H.R. 902, to improve circulation of the \$1 coin, create a new bullion coin, amended (H. Rept. 109–39);

H.R. 458, to prevent the sale of abusive insurance and investment products to military personnel (H. Rept. 109–40);

H.R. 525, to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small busi-

nesses with respect to medical care for their employees (H. Rept. 109–41);

H.R. 798, to provide for a research program for remediation of closed methamphetamine production laboratories, amended (H. Rept. 109–42); and

H. Res. 211, providing for consideration of S. 256, to amend title 11 of the United States Code (H. Rept. 109–43). **Page H1967**

**Speaker:** Read a letter from the Speaker wherein he appointed Representative Capito to act as Speaker Pro Tempore for today. **Page H1899**

**Chaplain:** The prayer was offered today by Dr. Curt Dodd, Senior Pastor, Westside Church in Omaha, Nebraska. **Page H1899**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

*Justin W. Williams United States Attorney's Building Designation Act:* H.R. 1463, to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building", by a 2/3 yeas-and-nays vote of 427 yeas with none voting "nay", Roll No. 98;

Pages H1903-05, H1919-20

*Reynaldo G. Garza and Filemon B. Vela United States Courthouse Designation Act:* H.R. 483, to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse"; and

Pages H1905-07

*Robert T. Matsui United States Courthouse Designation Act:* H.R. 787, to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse", by a 2/3 yeas-and-nays vote of 426 yeas with none voting "nay", Roll No. 99.

Pages H1907-10, H1920-21

**Death Tax Repeal Permanency Act of 2005:** The House passed H.R. 8, to make the repeal of the estate tax permanent, by a recorded vote of 272 yeas to 162 noes, Roll No. 102.

Pages H1910-19, H1921-43

Rejected the Pomeroy amendment in the nature of a substitute (printed in H. Rept. 109-35) by a recorded vote of 194 yeas to 238 noes, Roll No. 101.

Pages H1933-42

H. Res. 202, the rule providing for consideration of the bill was agreed to by voice vote, after agreeing to order the previous question by a yeas and nays vote of 237 yeas to 195 nays, Roll No. 100.

Page H1921

**Recess:** The House recessed at 12:30 p.m. and reconvened at 1:38 p.m.

Page H1919

**Quorum Calls—Votes:** Three yeas and nays votes and two recorded votes developed during the proceedings of today and appear on pages H1919-20, H1920-21, H1921, H1941-42, H1942. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 8:47 p.m.

## Committee Meetings

### AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies held a hearing on Centers for Medicare and Medicaid Services, and on the Administration on Aging. Testimony was heard from the following officials of the Department of

Health and Human Services: Mark McClellan, M.D., Administrator, Centers for Medicare and Medicaid Services; Josefina G. Carbonell, Assistant Secretary, Aging, Administration on Aging; and William Beldon, Deputy Assistant Secretary, Budget.

### DEPARTMENTS OF TRANSPORTATION, TREASURY, HUD, THE JUDICIARY, DISTRICT OF COLUMBIA, AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia and Independent Agencies held a hearing on the OMB. Testimony was heard from Joshua B. Bolton, Director, OMB.

### FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on the Millennium Challenge Corporation. Testimony was heard from Paul V. Applegarth, CEO, Millennium Challenge Corporation.

### INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Interior, Environment, and Related Agencies held a hearing on the National Park Service. Testimony was heard from Fran Mainella, Director, National Park Service, Department of the Interior.

### OSHA/RECREATIONAL BOATING JOBS MEASURES

*Committee on Education and the Workforce:* Ordered reported the following bills: H.R. 739, Occupational Safety and Health Small Business Day in Court Act of 2005; H.R. 740, amended, Occupational Safety and Health Review Commission Efficiency Act of 2005; H.R. 741, amended, Occupational Safety and Health Independent Review of OSHA Citations Act of 2005; H.R. 742, Occupational Safety and Health Small Employer Access to Justice Act of 2005; and H.R. 940, amended, Recreational Marine Employment Act of 2005.

### ENERGY POLICY ACT

*Committee on Energy and Commerce:* Ordered reported, as amended, the Energy Policy Act of 2005.

### GOVERNMENT-SPONSORED ENTERPRISES REGULATORY REFORM

*Committee on Financial Services:* Held a hearing entitled "The Administration Perspective on GSE Regulatory Reform." Testimony was heard from John W.

Snow, Secretary of the Treasury; and Alphonso R. Jackson, Secretary of Housing and Urban Development.

#### **NET WORTH AMENDMENT FOR CREATE UNIONS ACT**

*Committee on Financial Services:* Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 1042, Net Worth Amendment for Credit Unions Act. Testimony was heard from JoAnn Johnson, Chairman, National Credit Union Administration; and public witnesses.

#### **MISCELLANEOUS MEASURES**

*Committee on Government Reform:* Ordered reported the following measures: H.R. 22, amended, Postal Accountability and Enhancement Act; H.R. 1533, amended, Federal Energy Management Improvement Act of 2005; H.R. 504, To designate the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, as the "Ray Charles Post Office Building;" H.R. 1001, To designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the "Sergeant Byron W. Norwood Post Office Building;" H.R. 1072, To designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the "Judge Emilio Vargas Post Office Building;" H.R. 1082, To designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the "Francis C. Goodpaster Post Office Building;" H.R. 1236, To designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the "Mayor Tony Armstrong Memorial Post Office;" H.R. 1524, To designate the facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, as the "Ed Eilert Post Office Building;" H.R. 1542, To designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the "Honorable Judge George N. Leighton Post Office Building;" H. Res. 184, Recognizing a National Week of Hope in commemoration of the 10-year anniversary of the terrorist bombing in Oklahoma City; H. Con. Res. 41, Recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization; and H. Res. 197, Honoring Franklin Delano Roosevelt.

#### **DEPARTMENT OF HOMELAND SECURITY PROMOTING PRIORITIZATION AND MANAGEMENT**

*Committee on Homeland Security:* Held a hearing entitled "The Department of Homeland Security: Pro-

moting Risk-Based Prioritization and Management." Testimony was heard from Michael Chertoff, Secretary of Homeland Security.

#### **GLOBAL AIDS CRISIS—U.S. RESPONSE**

*Committee on International Relations:* Held a hearing on U.S. Response to Global AIDS Crisis: A Two-Year Review, Testimony was heard from Randall L. Tobias, U.S. Global AIDS Coordinator, Department of State; and public witnesses.

#### **IRAN FREEDOM SUPPORT ACT**

*Committee on International Relations:* Subcommittee on Middle East and Central Asia approved for full Committee action, as amended, H.R. 282, Iran Freedom Support Act.

#### **U.S. TRADE AGREEMENTS WITH LATIN AMERICA**

*Committee on International Relations:* Subcommittee on Western Hemisphere held a hearing on U.S. Trade Agreements with Latin America. Testimony was heard from Representatives Brady of Texas, and Becerra; former Representative Cass Ballenger of North Carolina; and public witnesses.

#### **MISCELLANEOUS MEASURES**

*Committee on the Judiciary:* Ordered reported the following bills: H.R. 32, amended, Stop Counterfeiting in Manufactured Goods Act; H.R. 748, amended, Child Interstate Abortion Notification Act; and H.R. 866, To make technical corrections to the United States Code.

The Committee also began mark up of H.R. 1279, Gang Deterrence and Community Protection Act of 2005.

#### **OVERSIGHT—IMMIGRATION AND ALIEN GANG EPIDEMIC**

*Committee on the Judiciary:* Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on Immigration and the Alien Gang Epidemic: Problems and Solutions. Testimony was heard from Michael Garcia, Assistant Secretary, Immigration and Customs Enforcement, Department of Homeland Security; and public witnesses.

#### **DOMESTIC ENERGY SECURITY ACT**

*Committee on Resources:* Ordered reported, as amended, the Domestic Energy Security Act.

#### **OVERSIGHT—GRAZING AND RANGE CONSERVATION**

*Committee on Resources:* Subcommittee on Forests and Forest Health held an oversight hearing on Management Challenges for Grazing and Range Conservation in the Forest Service and the Bureau of Land



Management. Testimony was heard from public witnesses.

### DROUGHT IMPACT REDUCTION

*Committee on Resources:* Subcommittee on Water and Power held an oversight hearing entitled "The Role of New Surface and Groundwater Storage in Providing Reliable Water and Power Supplies and Reducing Drought's Impacts." Testimony was heard from public witnesses.

### BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

*Committee on Rules:* Granted, by a vote of 7 to 4, a closed rule providing one hour of debate on S. 256, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against the bill and against its consideration. Finally, the rule provides one motion to recommit with or without instructions.

### GREEN CHEMISTRY RESEARCH AND DEVELOPMENT ACT

*Committee on Science:* Ordered reported, as amended, H.R.1215, Green Chemistry Research and Development Act of 2005.

### SMALL BUSINESS INVESTMENT COMPANIES PROGRAM

*Committee on Small Business:* Held a hearing entitled "Private Equity for Small Firms: The Importance of the Participating Securities Program." Testimony was heard from Jaime Guzman-Fournier, Associate Administrator, Office of Investment, SBA; and public witnesses.

### COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2005

*Committee on Transportation and Infrastructure:* Subcommittee on Coast Guard and Maritime Transportation approved for full Committee action H.R. 889, Coast Guard and Maritime Transportation Act of 2005.

### OVERSIGHT—WASTEWATER BLENDING

*Committee on Transportation and Infrastructure:* Subcommittee on Water Resources and Environment held an oversight hearing on Wastewater Blending. Testimony was heard from Representative Stupak; and public witnesses.

### ENHANCED ENERGY INFRASTRUCTURE AND TECHNOLOGY TAX ACT OF 2005

*Committee on Ways and Means:* Ordered reported, as amended, H.R. 1541, Enhanced Energy Infrastructure and Technology Tax Act of 2005.

### FBI BUDGET

*Permanent Select Committee on Intelligence:* Met in executive session to hold a hearing on FBI Budget. Testimony was heard from departmental witnesses.

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## COMMITTEE MEETINGS FOR THURSDAY, APRIL 14, 2005

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Appropriations:* Subcommittee on Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Housing and Urban Development, 9:30 a.m., SD-138.

Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Office of Marketing and Regulatory Programs, the Office of Food, Nutrition, and Consumer Services, and the Office of Food Safety and Inspection Service, all of the Department of Agriculture, 2 p.m., SD-192.

Subcommittee on Energy and Water, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Nuclear Security Administration, 2 p.m., SD-124.

*Committee on Armed Services:* to hold hearings to examine implementation by the Department of Defense of the National Security Personnel System, 9:30 a.m., SR-325.

Subcommittee on Airland, to hold hearings to examine Air Force acquisition oversight in review of the Defense Authorization Request for Fiscal Year 2006, 2:30 p.m., SR-232A.

*Committee on Banking, Housing, and Urban Affairs:* to hold hearings to examine the implementation of the Terrorism Risk Insurance Program, 10 a.m., SD-538.

*Committee on Commerce, Science, and Transportation:* business meeting to consider S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, S. 714, to amend section 227 of the Communications Act of 1934 relating to the prohibition on junk fax transmissions, S. 432, to establish a digital and wireless network technology program, the proposed Surface Transportation Safety Improvement Act of 2005, and the nominations of a National Oceanic and Atmospheric Administration Promotion List, Coast Guard Promotion List, and Coast Guard Promotion List, 10 a.m., SR-253.

*Committee on Finance:* to hold hearings to examine how to solve the tax gap, 10 a.m., SD-G50.

*Committee on Health, Education, Labor, and Pensions:* to hold hearings to examine lifelong education opportunities, 10 a.m., SD-430.

*Committee on Homeland Security and Governmental Affairs:* Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold oversight hearings to examine a review of the Unfunded Mandates Reform Act (UMRA), focusing on the impact of the

UMRA has had on Federal, state, and local governments and explore if changes are necessary to strengthen the law's procedures, definitions, and exclusions, 10 a.m., SD-342.

Full Committee, to hold hearings to examine the ongoing need for comprehensive postal reform, 2 p.m., SD-342.

*Committee on the Judiciary*: business meeting to consider S. 378, to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, S. 119, to provide for the protection of unaccompanied alien children, S. 629, to amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems, S. 555, to amend the Sherman Act to make oil-producing and exporting cartels illegal, and the nominations of Thomas B. Griffith, of Utah, and Janice R. Brown, of California, each to be a United States Circuit Judge for the District of Columbia Circuit, Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit, Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina, and James C. Dever III, to be United States District Judge for the Eastern District of North Carolina, 9:30 a.m., SD-226.

Subcommittee on Immigration, Border Security and Citizenship, with the Subcommittee on Terrorism, Technology and Homeland Security, to hold joint hearings to examine deportation and related issues relating to strengthening interior enforcement, 2:30 p.m., SD-226.

*Committee on Veterans' Affairs*: to hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America, 10 a.m., 345 CHOB.

*Select Committee on Intelligence*: to hold hearings to examine the nomination of Lieutenant General Michael V. Hayden, United States Air Force, to be Principal Deputy Director of National Intelligence, 10:30 a.m., SH-216.

Full Committee, closed business meeting to consider pending calendar business, 3 p.m., SH-219.

### House

*Committee on Appropriations*, Subcommittee on Defense, on Recruiting and Retention, 10 a.m., 2359 Rayburn.

Subcommittee on The Department of Homeland Security, on Science and Technology, 2 p.m., 2359 Rayburn.

Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, on Public Witnesses, 10 a.m., 2358 Rayburn.

Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, on Election Assistance Commission, 10 a.m., and on Consumer Product Safety Commission, 2 p.m., 2358 Rayburn.

Subcommittee on Foreign Operations, Export Financing, and Related Agencies, on Members of Congress and Public Witnesses, 9 a.m., H-144 Capitol.

Subcommittee on Interior, Environment, and Related Agencies, on Public Witnesses: Native Americans, 10 a.m., B-308 Rayburn.

*Committee on Armed Services*, and the Committee on International Relations, joint hearing regarding U.S. national security and foreign policy implications of arms exports to the People's Republic of China by member states of the European Union, 9 a.m., 2118 Rayburn.

Subcommittee on Tactical Air and Land Forces, hearing on the Fiscal Year 2006 National Defense Authorization budget request on the Department of Defense's major rotorcraft programs, 3:30 p.m., 2118 Rayburn.

*Committee on Education and the Workforce*, Subcommittee on Education Reform, hearing on The Best of Head Start: Learning from Model Programs, 10:30 a.m., 2175 Rayburn.

*Committee on Energy and Commerce*, to continue mark up of the Energy Policy Act of 2005, 10 a.m., 2123 Rayburn.

Subcommittee on Telecommunications and the Internet, hearing entitled "The ORBIT Act: An Examination of Progress Made in Privatizing the Satellite Communications Marketplace," 10 a.m., 2123 Rayburn.

*Committee on Financial Services*, Subcommittee on Housing and Community Opportunity, hearing entitled "Review and Oversight of the National Flood Insurance Program," 11 a.m., 2128 Rayburn.

*Committee on Homeland Security*, hearing entitled "Grant Reform: The Faster and Smarter Funding for First Responders Act of 2005," 11 a.m., 210 Cannon.

Subcommittee on Management, Integration, and Oversight, hearing entitled "The Need to Strengthen Information Security at the Department of Homeland Security," 2 p.m., 210 Cannon.

*Committee on International Relations*, Subcommittee on Africa, Global Human Rights, and International Operations, hearing on Foreign Relations Authorization for FY 2005-2006: Department of State Management Initiatives, 2 p.m., 2172 Rayburn.

Subcommittee on International Terrorism and Non-proliferation, hearing on Averting Nuclear Terrorism, 2 p.m., 2200 Rayburn.

*Committee on Resources*, Subcommittee on Fisheries and Oceans, oversight hearing on the Relationship between the Magnuson-Stevens Fishery Conservation and Management Act and the National Environmental Policy Act, 10 a.m., 1334 Longworth.

Subcommittee on National Parks, hearing on the following bills: H.R. 432, Betty Dick Residence Protection Act; H.R. 481, Sand Creek Massacre National Historic Site Trust Act of 2005; and H.R. 1492, To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, 10 a.m., 1324 Longworth.

*Committee on Science*, hearing on the 2004 Presidential Awardees for Excellence in Mathematics and Science Teaching, 10 a.m., 2318 Rayburn.

*Committee on Small Business*, Subcommittee on Tax, Finance and Exports, hearing entitled “The Estate Tax and the Alternative Minimum Tax—Inequity for America’s Small Businesses,” 2 p.m., 311 Cannon.

*Committee on Transportation and Infrastructure*, Subcommittee on Aviation, oversight hearing on Transforming the Federal Aviation Administration: a Review of the Air Traffic Organization and the Joint Program Development Office, 10 a.m., 2167 Rayburn.

Subcommittee on Economic Development, Public Buildings and Emergency Management, oversight hearing on The National Preparedness System: What are we preparing for? 2 p.m., 2167 Rayburn.

*Committee on Ways and Means*, hearing on United States-China Economic Relations and China’s Role in the World Economy, 11 a.m., 1100 Longworth.

Subcommittee on Oversight, hearing on 2005 Tax Return Filing Season and the IRS Budget for Fiscal Year 2006, 2 p.m., B-318 Rayburn.

*Permanent Select Committee on Intelligence*, executive, briefing on Global Updates, 9 a.m., and executive, hearing on

General Defense Intelligence Program (GDIP) Budget, 10 a.m., HJ-405 Capitol.

## *Joint Meetings*

*Joint Meetings*: Senate Committee on Veterans’ Affairs, to hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America, 10 a.m., 345 CHOB.

*Commission on Security and Cooperation in Europe*: to hold hearings to examine problems experienced by unregistered religious communities operating within the Russian Federation, 11 a.m., 2200 RHOB.

*Joint Economic Committee*: to hold hearings to examine the current economic outlook for April, 9:30 a.m., 2212 RHOB.

## Next Meeting of the SENATE

9:30 a.m., Thursday, April 14

## Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, April 14

## Senate Chamber

**Program for Thursday:** After the transaction of any morning business (not to extend beyond 60 minutes), Senate will continue consideration of H.R. 1268, Emergency Supplemental Appropriations.

## House Chamber

**Program for Thursday:** Consideration of S. 256, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (closed rule, one hour of debate).

## Extensions of Remarks, as inserted in this issue

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