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

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC, April 19, 2005.

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

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

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPRATT) for 5 minutes.

KEEPING PROMISES TO OUR SERVICE MEMBERS

Mr. SPRATT. Mr. Speaker, all of us who go out into the field to see our troops, and particularly overseas, bring back many conclusions and various impressions; but to a person, we all come back impressed, inspired, and thankful for the men and women who serve in the Armed Forces of the United States. In hard, dirty, and dangerous circumstances and often thankless deployments like Iraq and Afghanistan, they not only serve but they have had to adapt and improvise and tackle tasks they were never trained to handle. They have risen to the occasion, they have risen to the challenge, and at significant cost, in terms of those who have been wounded or injured or killed in action. These troops are the finest that any country has ever fielded, and they deserve not only our admiration but our support, and not just for them and their roles, which are vitally important, but for their families back home, for they sacrifice dearly.

There are three levels in which our support should come: first, to those on active duty, and their families, and particularly those who are deployed for long tours of duty in harsh environments and under hazardous conditions; second, to the Guard and Reserve who leave their civilian occupations and are now serving in numbers and percentages we have never seen since the all-volunteer force was created some 30 years ago. Almost half of those in Iraq come from the reserve components. More than 300,000 have been called up over the last 2½ years; 45,000 have had their tours extended. Many are on their second tour, some on their third. They are answering the call, they are doing their duty, and they are proving that the total force works and works well. But they have families back home and jobs and businesses and obligations and debts to pay and health care needs, and they need our unstinting support as never before. They not only need it, they deserve it. Next come the veterans and the retirees, those who have put, in many cases, much of their adult lives into serving their country. They have served and they now look to their country to keep the promises that were made to them at the time they were serving and when they reupped and when they stayed in for 20 and 25 years, promises about retirement benefits, about veterans benefits, about health care and education and many other things.

When the needs of these three groups are put together, all together, they make up a long bill of particulars, more than we can do, in all candor, in 1 year or even 2 years; but every time we take up a supplemental appropriation bill or a defense authorization bill or a defense appropriation bill, we should frankly, candidly, and honestly, searchingly, ask ourselves, what are we doing in this bill, on this occasion, to meet the needs of our service men and women who are serving gallantly in places like Iraq and Afghanistan and what are we doing in particular for their families?

What are we doing to help them out in their combat circumstances, with flak vests and personal protective gear and up-armored vehicles? But what are we also doing for their children back home for their health care needs? Have we provided adequately, I do not think we have, for family separation centers, the one place dedicated to helping them resolve their problems while family members are overseas? And for Tricare, health care, critically important in our society, particularly for Reserve and their families, Reservists leaving their job, what have we done to provide and see to it that they do not have to sacrifice in terms of health care for themselves and their families not only while they are on duty but in the months after they are deactivated and come back home?

And how about servicemen’s life insurance? For years it had been inadequately funded. Many troops because of the premium, modest though it seems, have not elected to take it. What are we doing to see to it that every American soldier who goes into combat, hazardous duty has at least several hundred thousand dollars of servicemen’s group life insurance? And what are we doing about our veterans, our category 7 and 8 veterans for over 2 years now, if they have not previously registered and are not able to...
The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, as the summer driving season is set to begin, gasoline prices are at a record high. While some continue to blame the Bush administration and the Republicans in Congress, the truth is that neither is responsible for the record highs. The reason for the high gas prices includes the cost of crude oil due to a worldwide explosion in demand, the lack of refinery processing capacity, and the over-regulation here in Washington.

The House will get the opportunity to address this problem this week with the House bringing to the floor the Energy Policy Act of 2005, H.R. 6. The long-awaited legislation contains a number of provisions that would lower gas prices. H.R. 6 encourages more domestic production of oil with incentives such as a streamlined permit process, promotes a greater refining capacity to bring more oil to market, and increases the gasoline supply by stopping the proliferation of expensive regionalboutique fuels.

The Department of Energy predicts by 2025 U.S. oil and natural gas demand will rise by 46 percent, with energy demand increasing 1 percent for every 2 percent in GDP growth. Critics of H.R. 6 claim that it would do little to curb consumption or drive down prices. In fact, this legislation includes provisions to do just that. In order to scale back demand for oil, the proposal encourages vehicles powered by hydrogen fuel cells and increases funding for the Department of Transportation to work to improve fuel efficiency standards. Furthermore, it authorizes $200 million for the clean cities program which will provide grants to State and local governments to acquire alternative-fueled vehicles.

Curbng demand is necessary, but it is not nearly enough to lower the price of gas. We also need to increase domestic production needs. Ending our depen-dence on foreign oil is not only important to the economy but also doubly important to national security. Currently, the U.S. imports about 60 percent of its oil. The Department of Energy projects this number will increase to 73 percent by 2025. In order to ensure reliable and secure supplies of oil, we have no choice but simply to increase our domestic supply.

Domestic energy production must be increased without compromising a clean environment. There have been giant leaps in technology that would produce oil and natural gas in an environmentally safe manner. We need a comprehensive energy policy that recognizes that sophisticated new technologies have a positive impact on the environment by exploration and production. Along with the incredible advances in technology, transportation, and medicine that improve our lives comes the increased need for energy.

In addition, overregulation by the government also contributes to regional and seasonal price fluctuations that increase costs and, of course, reduce flexibility to meet consumer demand. According to the Energy Information Agency, last year refining costs represented about 20 percent of the retail cost of gasoline. By simply scaling back the excessive and cumbersome Federal regulations on refiners, we could significantly reduce these costs. For example, the 1990 Clean Air Act amendments mandate the sale of cleanerburning reformulated gasoline in order to reduce summer smog in nine major metropolitan areas. The law also requires RFG to contain at least 2 percent oxygen by weight.

To comply with these regulations, refiners must switch from winter grade fuel to costlier summer blend gasoline. According to the Federal Trade Commission, refiners can make profits by creating two blends of gasoline. The refined grade is a higher octane and is designed to be sold to consumers. However, at times, the cost of summer blend can be as much as $1.24 per gallon.

This hodgepodge of customized fuel requirements increases production costs which are ultimately reflected in the price of gasoline that we pay today. These varied gasoline specifications also restrict the ability of refiners and distributors to move supplies around the country in response to local and, of course, regional shortages. High gas prices affect every sector of the American economy and especially hit families the hardest. Congress has been debating and debating this issue for too long. We now have the chance to enact this week comprehensive energy legislation that will go a long way to lower the cost of gasoline. We need to fully embrace this opportunity before it is too late.

RECOGNIZING THE CONTRIBUTIONS OF OUR MILITARY FAMILIES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentlewoman from California (Mrs. DAVIS) is recognized during morning hour debates for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I am honored to join the gentleman from South Carolina (Mr. SPRATT). I have long admired and respected his efforts to give our military families the attention they deserve. I was recently appointed to the Committee on Armed Services.

I want to take a moment now to specifically mention our military families. By now, every American is familiar with the daily contributions and sacrifices made by our service members, but we have to remember that their families serve, too. Many spouses remind me all the time that when the military prepares for deployment, well, so do their families. As a former military spouse myself, I am incredibly grateful and humbled by their unique sacrifices. With so much of our attention on other things, their contribu-tions often go unnoticed and undervalued. I want our military families to know that we are working to improve the family-support infrastructure that exists for them. Access to family support services should be consid-ered a family benefit without regard to where the families reside. Use of technology can certainly enhance their access to family support, but it sure cannot take the place of a support network.

Democrats are seeking more innovative ways to fund health care for military families, to provide a fully resourced, comprehensive and portable health care benefit, and to increase the value of the commissary and exchange benefit. We have also made progress with addressing the demand for family housing. This has included privatization initiatives, military construction, and adequate funding for the basic allowance for housing. Democrats are also exploring ways in which we can work together with DOD to enhance educational and employment opportunities for military spouses.

And I can tell the Members firsthand how difficult this is when faced with the challenges of the military lifestyle. By recognizing the contributions of our military families, we have identified a critical part of addressing future recruiting and retention needs of the military. We must continue to recognize their sacrifices as well as those
made by the service members themselves.

This is an important task, and I am hopeful that Congress will continue giving this the concerted attention it deserves as we prepare the Defense Authorization bill for next year.

OUR U.S. MILITARY SUCCESSES IN AN AFGHANISTAN

The SPEAKER pro tempore (Mr. Fortenberry). Pursuant to the order of the House of January 4, 2005, the gentlewoman from Florida (Ms. Ros-Lehtinen) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to highlight the accomplishments that we have been able to achieve in Afghanistan, thanks to the dedicated and courageous service of our men and women in uniform. These Marines, sailors, airmen, and soldiers exemplify what our country has to offer. By risking, and sometimes giving, their lives, they have allowed the 30 million people of Afghanistan to live in peace and prosperity, free from the fear and tyranny of the Taliban.

By liberating Afghanistan, our fighting men and women also ensured that al Qaeda would no longer be allowed to operate with impunity in what was then a failed state. In a brilliantly waged campaign, our Special Forces brought the fight to our enemies. By utilizing local resistance forces and at times even charging into battle on horseback, they liberated this beautiful country from a menacing dictatorship.

What the Afghans, with the help of the U.S. and our Coalition forces, were subsequently able to achieve is nothing less than a miracle. On October 9, 2004, barely less than 2 years since the fall of the Taliban, Afghanistan held the first democratic elections in its history, overwhelmingly electing Hamid Karzai as its President. Afghanistan is now scheduled to hold another election on September 18 to select its first parliament.

These two elections, coming less than a year apart, are even more impressive given that this country has been at war for the better part of the last 30 years. First, fighting a Soviet invasion, and later, a civil war between the different mujahideen.

I could not say better words than those of a reporter of the Associated Press to describe the presidential election in Afghanistan when he wrote: “After a generation of conflict, Afghans are slowly emerging from darkness. In the afterglow of last fall’s presidential election, there is hope in Kabul.”

In this country of 30 million people, more than 10 million registered to vote, 41 percent of them women, these elections were monitored by more than 5,400 independent observers from groups such as the EU, the OSCE, the U.S., and the U.N., giving further validity to these historic elections.

The hard work of our men and women in uniform does not stop there. They have worked closely with our allies to train a national Afghan army so that their people and their hard-fought democracy can be protected. Almost 19,000 soldiers serve in the Afghan national army with another 3,400 being trained by our troops. These soldiers are being deployed to all corners of the country.

The United States has also trained more than 25,000 police officers, and other security personnel. Ensuring the rule of law that it would be protected in this nation that has known only war and tyranny is miraculous.

The U.S. military has also helped to rehabilitate more than 7,500 canals, underground irrigation tunnels, reservoirs, and ditches, increasing agricultural output in this arid country. These policies have resulted in an 82 percent increase in wheat production.

Our U.S. military forces were also able to assist in the demining and paving of the main Kandahar highway, ahead of schedule, as well as rehabilitating 74 bridges and tunnels.

These accomplishments have led to a 30 percent growth in the Afghan economy from 2002 to 2003 and an estimated 16 percent growth from 2003 to 2004. These policies have led to 2.4 million refugees returning to Afghanistan from neighboring countries after many years of being displaced by war. Another 600,000 internally displaced individuals have also been able to return home.

Mr. Speaker, I could stand before this body for hours to speak about our success in Afghanistan and the positive difference that our U.S. military troops have been able to make to assist in the sacrifices and those of their families. My own husband, retired Lieutenant Dexter Lehtinen, was a platoon leader in Vietnam until a grenade almost took his life. The scars on his face are constant reminders of the price so many Americans have paid for our freedom and the price that so many continue to pay.

As my stepson, Aviator First Lieutenant Douglas Lehtinen, prepares to leave for Afghanistan, I realize how much my family has benefited from the sacrifices of our men and women in uniform. Nothing can ever replace those who were lost and although the scars will never disappear, those acts of bravery have not been in vain.

May God bless our men and women in uniform and may God bless America.

CAPTA

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Ohio (Mr. Brown) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, a bowling ball weighs about 170 times the weight of a slice of sandwich bread. It does not take a physicist to see the mismatch between a bowling ball and a slice of bread. It does not take a trade expert to see the mismatch between the United States and the nations that make up the Central American Free Trade Agreement, CAFTA: Honduras, Costa Rica, Nicaragua, Guatemala, and El Salvador.

That way that proponents of the Central American Free Trade Agreement talk, one would think that Central America was one of the biggest economies in the Western Hemisphere. CAFTA nations, in fact, are not only among the world’s poorest countries, they are among its smallest economies.

Think about this: This big trade agreement that President Bush wants, CAFTA, the combined purchasing power of CAFTA nations is almost identical to the purchasing power of Columbus, Ohio.

Tomorrow the House will hold a hearing on CAFTA. Since President Bush took office, Congress has voted with 15 days of the President’s affixing his signature on a trade agreement. April 28, coming up, will mark the 11-month anniversary of when the President signed CAFTA. In other words, trade agreements are always sent to Congress quickly. Within a couple of months, we vote on them.

The President has delayed CAFTA for 11 months because this simply is not an agreement that the American people want or need. Other trade agreements were all done within about 2 months, but because CAFTA is so unpopular, because trade policy in this country is so wrong-headed, the President still has not asked this Congress to vote on CAFTA.

Clearly, there is disension in the ranks for good reason. CAFTA is the dysfunctional cousin of NAFTA, the North American Free Trade Agreement, and continues a legacy of failed trade policy.

Look at NAFTA’s record; NAFTA is the United States, Mexico, and Canada: One million U.S. manufacturing jobs lost to the North American Free Trade Agreement. Wages of Mexicans have stagnated. Environmental conditions, especially along the U.S.-Mexican border have worsened dramatically. And yet the U.S. continues to push for more of the same; more of the same job hemorrhaging, more of the same income hemorrhaging, more of the same income-
Mr. BLUMENAUER is recognized during morning hour debates for 5 minutes. Mr. MILLER of North Carolina. Mr. Speaker, the financial condition of American working and middle-class families is a mess. Wages are stagnant, health care costs are exploding, the individual savings rate for 2004 was 1 percent, and credit card debt is more than $800 billion.

The bright spot is that 69 percent of American families own their own home. The equity that American families build in their homes by years of faithfully paying a mortgage is the bulk of the net worth, the life savings, of most homeowners.

Homeownership is more than an investment. The deed to a home is a valuable asset that provides a sense of security and stability. Homeowners are more likely to have family and friends visit, to engage in community activities, and to feel a greater sense of belonging.

Every American homeowner faces a mountain of documents when they borrow money to buy a home or when they use their home to secure a loan. Many vulnerable homeowners borrow knowing that their monthly payment will be, only to learn later that they signed away a big part of their home equity, of their life savings.

The energy bill continues to spend too much for the wrong people to do the wrong things. We need the technologies and strategies that ultimately will make a difference for the future. There is no question that America in this century will rely much more heavily on renewables and conservation. The sad note is that we are slipping behind the Chinese, who are increasing their cars’ fuel efficiency standards, and further behind the European and Japanese, who are already racing ahead of us in energy efficiency. It is replete with massive subsidies for their oil companies and special interest groups that are determined to keep our military plodding behind the Chinese, who are racing ahead of us in energy efficiency. This is ironic, when our military element of supply are denied to the enemy to strike, and they can move greater distances between refueling points. Lighter, more energy efficient vehicles are harder targets for the enemy to strike, and they can move greater distances between refueling points. Lighter, more energy efficient vehicles are harder targets for the enemy to strike, and they can move greater distances between refueling points and do not need this long chain of supply with more points of vulnerability for the vehicles and for our soldiers.

The situation the military faces in Iraq and other potential trouble spots demands action on an ambitious energy policy with a significant commitment to fuel conservation and renewable technologies, if only for the sake of the security of our Nation and the safety of our troops.

The skyrocketing gas prices this spring further demonstrates that we are hostage to an inadequate energy infrastructure with constrained refining capacity. The energy bill contains almost no incentives for change, as all those currently in control profit by and efficiency of operations at Guantanamo.

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There are lending practices that should offend anyone with a conscience. Let me give my colleagues one of the stories from North Carolina that prompted the North Carolina legislature, not generally seen as a hotbed of liberalism, to enact legislation to prohibit predatory lending 6 years ago.

A lender approached an elderly school employee in Durham about refinancing her home to consolidate her debts. The lender charged her $17,542 in up-front costs on a $99,000 loan, including a $75 loan origination fee, a $2,112 loan discount fee, and a $9,089 single-payment, nonrefundable credit premium insurance. She would never have written a $17,542 check at closing, but when she signed the closing documents, the charges came straight out of the equity she had built in her home, straight out of her life’s savings.

The North Carolina law enacted in 1999 has put an end to practices like that, and without hindering honest lenders from making loans to vulnerable families that need to borrow.

The gentleman from North Carolina (Mr. WATT), the gentleman from Massachusetts (Mr. FRANK), and I have introduced Federal legislation based on North Carolina’s proven law.

Critics of our legislation argue that we would restrict consumer choice. Most would like the choice of knowing they are not being taken advantage of; that when they borrow money against their home for a rainy day, they are not entering into a spiral of debts. The lender charged her $17,542 in up-front costs on a $99,000 loan, including a $75 loan origination fee, a $2,112 loan discount fee, and a $9,089 single-payment, nonrefundable credit premium insurance. She would never have written a $17,542 check at closing, but when she signed the closing documents, the charges came straight out of the equity she had built in her home, straight out of her life’s savings.

We look forward to working with others in Congress and in the financial services industry. We welcome proposals from others to prohibit abuses. But we also want to make sure that Congress does not pass legislation that permits new abuses. We must make sure that the protections of any new law are not easily avoided, and we cannot handcuff the States’ ability to protect consumers. Sub-prime lending is now a $530 billion industry, and growing. Vulnerable consumers cannot afford to have to come back to Congress again and again for real protections against abusive sub-prime lending practices.

David’s victory over Goliath was considered an upset, and Goliath would have been heavily favored in a best-of-seven series. If Congress passes predatory lending legislation, we need to get it right the first time. Consumers cannot count on having a second chance.

RECESS

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

Accordingly (at 1 o’clock and 7 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

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

PRAYER

The Reverend Timothy B. Johnson, pastor, the Church of the Redeemer, Bowie, Maryland, offered the following prayer:

O God, thank You for loving us. In gratitude and humility we come to You now needing only what You can give. Forgive our pride. Forgive our sins and the things that we allow to cause division. Forgive and change us. Bless these leaders and this great Nation and those they represent; people have given them the honor and responsibilities of leadership. May they lead with integrity and wisdom. Bless them and their families, knowing that they are often far from home and celebrations.

Thank You for this Nation and the freedoms we cherish. As we strive to bring freedom to others, protect our troops and civilians who are in danger. By Your guidance may the freedom we seek be true freedom, and may it be freedom that leads to peace.

We pray all of this in the name of Your Son, our Lord, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof. Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. Eddie Bernice Johnson) come forward and lead the House in the Pledge of Allegiance.

Ms. EDDIE BERNICE JOHNSON of Texas led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 289. An act to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011.

CARDINAL JOSEPH RATZINGER TO BE POPE BENEDICT XVI

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

Mr. FOLEY. Mr. Speaker, today people across the world have watched the ceremonies and historic proceedings in Vatican City with anticipation and joy.

Today the Catholic Church receives its 265th Pope. Cardinal Joseph Ratzinger rises to his new name, Pope Benedict XVI, and takes with him the blessings of Catholics across the world.

In a time of global unrest and terrorism, people of all faiths need to join together in prayerful contemplation of what we hope the world can become.

Pope John Paul II brought the church to billions of people and Pope Benedict XVI inherits the throne of Saint Peter.

The Fisherman at a precarious time in world history. Our prayers are with him and for our collective salvation.

ENERGY BILL NEEDS TO PROTECT THE ENVIRONMENT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the energy bill we are about to debate this week is presented as a major step forward in American energy policy. But it is not.

This bill does nothing to improve the environment of this country or cut down on ozone pollution exposure. This bill does not force big polluters to clean up. Rather, it provides billions of dollars in tax breaks to politically favored energy industries that do not deserve them at a time when the country can ill afford it.

Mr. Speaker, the State of Texas ranks number one among other States in per capita consumption of electricity and second in ozone pollution exposure. Last year Children’s Hospital of Dallas had 4,000 emergency department visits for treatment of asthma attacks. The average age of these kids was 5 years old.

More and more, there are hospitalizations. More and more, there are deaths from the pollution that we suffer in Texas; and I will offer an amendment to try and correct it. But, Mr. Speaker, I want to say what I think.

REGULATION NEEDED FOR 527 ORGANIZATIONS

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER. Mr. Speaker, tomorrow the Committee on House Administration will be holding a hearing on regulation of the so-called 527 political organizations.
We all remember the promises that campaign finance reform was supposed to remove unregulated money from the political process. Well, not only did it fail to deliver on its promise, an argument can be made that it actually is worse.

527 groups have grown in importance and influence with little or no disclosure of who funds them. According to published reports, staffers of the distinguished House minority leader acknowledged they hold weekly meetings with the leaders of MoveOn.org.

A recent fundraising e-mail sent on by MoveOn.org stated, “Now it’s our party. We bought it. We own it, and we’re taking it back.”

Strange that a group that claims to be nonpartisan for tax purposes claims to have bought a political party. The limited disclosure required by these groups makes it nearly impossible to determine who is claiming to have bought the Democratic Party. 527 groups spent over half a billion dollars in 2004 with no regulation from the FEC.

If we truly want to enhance disclosure and remove unregulated money from the political process, we must do something about 527s.

**STRIKE REFINERY REVITALIZATION PROVISIONS**

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

Ms. SOLIS. Mr. Speaker, today I rise in opposition to the unnecessary refinery revitalization provisions in the energy bill.

The energy bill would allow unrestricted sittings of refineries in low-income and underrepresented minority communities and strips States and local municipalities of their right to protect public health.

Most refinery communities are found in low-income minority areas, and they do not have the political power to protect themselves and their families. These communities have the least ability to defend themselves from corporate pollution and are the most vulnerable to environmental and public health problems. Yet they are the very targets in this language.

I believe the bill will only worsen the present and future environmental justice problems afflicting Latinos, African Americans and Native Americans.

Before we harm the health of the most underserved populations, strip States and communities of their right to protect themselves, we should have a real dialogue about the far reaching implications of this language in our communities.

Today I am asking the Committee on Rules to allow me to offer an amendment to strike this language during floor debate on the energy bill. I urge my colleagues to protect the public health and States’ rights and support my amendment to strike the refinery revitalization provisions.

**CELEBRATING A LANDMARK ACCOMPLISHMENT FOR BULGARIA**

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

Mr. WILSON of South Carolina. Mr. Speaker, last week the European Parliament made a historic decision for approval of Bulgaria to join the European Union in 2007.

As co-chair of the Congressional Bulgarian Caucus, I am pleased to congratulate Ambassador Elena Poptodorova, who represents Sofia in Washington so professionally.

Since the negotiations began in 2000, Bulgarians have proven they are eager to serve as active members of the European Union. They quickly took the right reforms to earn an important role in the international community. By sending over 400 troops to Iraq to rebuild the country and provide troops in Afghanistan that I have visited at Bagram, Bulgaria is also helping to win the war on terrorism.

In addition to NATO membership, Bulgaria’s membership in the European Union will prove to be a landmark event in the country’s history. I know Bulgaria will continue the Bulgarian miracle of economic success and military security.

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

**WE NEED THE ENERGY BILL**

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

Mr. PITTS. Mr. Speaker, energy powers the tools and the machines we need to live and our economy needs to grow; but when energy supplies are tight, families face challenges and our economy faces a deteriorating energy infrastructure.

In recent years, this has caused home heating bills to skyrocket and force many U.S. manufacturers to slow production, lay off workers, and even go out of business.

This week, the House will debate and vote on a national energy policy. Again, if this sounds familiar, that is because we have gone through this process several times already only to have a few Senators stall this long overdue legislation.

The National Energy Policy Act of 2005 is very comprehensive. We should not let the opponents of change stop us from enacting a sensible, progressive energy policy for America. We need it and America’s families need it.

**HONORING CONRAD ALBERTY**

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

Ms. FOXX. Mr. Speaker, I rise today to recognize one of America’s heroes, Mr. Conrad Alberty of Rockingham County, North Carolina.

Conrad fought for our country in the Philippines during the darkest days of World War II and later bore the terrible scars of enemy captivity. He exemplified the extraordinary sacrifice made by our military for our freedom. Conrad was a prisoner of war and is one of the few living survivors of the Bataan Death March.

Today by recognizing Mr. Conrad Alberty, we also honor the role of our Armed Forces in protecting our country and our liberty. I thank you, Mr. Alberty and may God bless you.

**HENRY HYDE, NO FINER PUBLIC SERVANT**

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

Mr. DREIER. Mr. Speaker, yesterday the very distinguished chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), announced his planned retirement for the end of this Congress. I would like to say this is my 25th year that I have been honored to serve here in the Congress, and I have served with no finer public servant than the gentleman from Illinois (Mr. HYDE).

The gentleman from Illinois (Mr. HYDE) has clearly been a principled leader who has provided bold and dynamic examples for us in a wide range of areas. We all know that he was a great champion in the effort to ensure that we do not see the taxpayer dollars expended on abortion-on-demand.

We know the key role that he played in dealing with the challenge that we faced with impeachment. We know that in recent years he has been suffering physically.

I have got to say that the Chaplain is here in the Chamber, and I will never forget at the unveiling of the portrait of the gentleman from Illinois (Mr. HYDE) when he was instructed when he became the Chaplain that he refer to everyone by their given name, except for one individual. The gentleman from Illinois to him is Mr. HYDE. And while I am privileged to call him HENRY, I will tell you that I will greatly miss him when he is not a Member of the next Congress.

**REMEMBERING JOHNNIE L. COCHRAN, JR.**

(Ms. WATSON asked and was given permission to address the House for 1
Ms. WATSON. Mr. Speaker, the public may now know Johnnie L. Cochran, Jr., as a high-profile, superbly dressed, superstar attorney with a signature smile that swayed everyone he met, including many of the multi-million dollar clients that he represented.

However, as a personal friend of Johnnie’s, I saw another side. Yes, he did everything with class, style, dignity and extreme care; but in addition he was caring, attentive and community leader.

Johnnie Cochran was a brilliant attorney whose untimely death is a loss to the world. His legal genius was compared to Justice Thurgood Marshall, his hero and his idol; Clarence Darrow; F. Lee Bailey; Professor Charles Ogletree and other legendary legal scholars.

Johnnie Cochran was an incredible human being who really cared about the plight of the poor and disadvantaged regardless of race, color, creed, or religion. Johnnie was often fond of saying, “The clients I cared about the most are the No Js, the ones who nobody knows.”

Attorney Cochran truly believed in justice for all. Even after death, Johnnie’s legal legacy was larger than life. His funeral last week in Los Angeles, entitled “Johnnie’s Journey To Justice,” was a celebration of his incredible life.

The A-list of celebrity clients were among more than 5,000 admirers saying good-bye to their hero who fought for civil rights, police reform, and basic human rights for everyone.

The Reverend William Epps, Johnnie’s home pastor of the historic Second Baptist Church of Los Angeles, the first church that Martin Luther King spoke in when he came to Los Angeles, and Reverend Calvin Butts of Abyssinia Baptist Church, Harlem, New York, presided over this joyful funeral service, which was held in the great West Angeles Cathedral in my district.

I would say that Johnnie led a very important life for a lot of people, and we will remember him always for bringing justice to not only the poor but middle class and wealthy. May God bless his soul.

DRILLING IN ANWR

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

Mr. BURGESS. Mr. Speaker, we are going to vote this week on an energy bill in the House. Energy independence should be a goal for this Congress.

Worldwide demand for petroleum has increased during the last decade. The growth in production has been relatively flat.

The inevitable result is higher prices at the gas pump. The reality is that it takes time to go from the oil patch to the gas station, and we have lost considerable time in that regard.

In 1995, in the 104th Congress, H.R. 2481 would have allowed oil exploration in the Alaska National Wildlife Refuge. The Department of Energy has estimated that between 1- and 1.3 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation was vetoed by then-President Clinton. That was 10 years ago, and given a timeline of 7 to 14 years for building the pipeline structure, it is time that we could start to move ahead.

Mr. Speaker, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of its marshy consistency. Any caribou unlikely enough to calve in this region would likely die from exsanguination at the hands of the mosquitoes there.

The people in ANWR, the people of Kaktovik, Alaska, are counting on this Congress to do the right thing and allow them, the rightful owners, to begin developing the resources as was granted them under statehood in 1959.

As we say in Texas, “time’s a-wasting.”

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken after 6:30 p.m. today.

SENSE OF CONGRESS REGARDING ISSUANCE OF 500,000TH DESIGN PATENT BY UNITED STATES PATENT AND TRADEMARK OFFICE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 53) expressing the sense of the Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office.

The Clerk read as follows:

H. CON. RES. 53

Whereas the United States is the world leader in innovation and ingenuity;

Whereas the United States Patent and Trademark Office has protected and encouraged innovation through the issuance of patents; and

Whereas on December 21, 2004, the United States Patent and Trademark Office awarded the 500,000th design patent to DaimlerChrysler Corporation for the design of the Chrysler Crossfire: Now, therefore, be it

SPENCER, IOWA: THE NUMBER ONE PLACE TO LIVE IN AMERICA

Mr. KING of Iowa. Mr. Speaker, this is a mission of joy for me. On the floor of this Congress, I am pleased to recognize the city of Spencer, Iowa, as the number one place to live in America.

This is not surprising to the folks in western Iowa. America is now aware of what we have known for a long time.

Spencer is not just a great town to live in; it is an excellent place to live. Tucked away in fields as far as the eye can see, Spencer is a town full of services, recreation, culture, entertainment and wonderful people.

I just celebrated with the people of Spencer the opening of my office on Grand Avenue.

Large enough to offer many of the services of a larger city and still small enough that people know and trust their neighbors, it is the kind of trusting place where people leave their doors open and the keys in their cars while parked outside the coffee shop.

In this town, if you were to walk into the Sisters Cafe or Carroll’s Bakery on any given morning, you would see the citizens of Spencer making time for each other. It is the kind of place where you know your neighbors and strangers are just friends you have not met yet.

Congratulations, Spencer, Iowa. You are number one.

500,000TH DESIGN PATENT
Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States Patent and Trademark Office has contributed significantly to the Nation’s economy; and

(2) DaimlerChrysler Corporation and its employees should be commended for their achievement in receiving the 500,000th design patent.

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

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

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 53, currently under consideration.

The SPEAKER pro tempore. Pursuant to the rule, is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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

Mr. SENSENBRENNER. Mr. Speaker, this concurrent resolution commends the U.S. Patent and Trademark Office for its contribution to the Nation’s economy and the DaimlerChrysler Corporation and its employees for their achievement in receiving the 500,000th design patent issued by the Patent and Trademark Office.

Mr. Speaker, we all recognize the important role that innovation and invention have played in our Nation’s history and economy. We also know that by ensuring protection for our ideas, we provide significant incentive for inventors to continue to come up with new concepts that improve our lives, whether it is a machine that raises productivity or a pharmaceutical drug that eases a life-threatening disease.

The efforts of the PTO in aiding such accomplishments are certainly noteworthy.

I commend the gentleman from Michigan (Mr. CONYERS), the Motor City, for introducing this resolution and congratulating DaimlerChrysler as the recipient of this landmark number patent. I urge the House to support this bill.

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

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

I begin by thanking the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, and as well the committee leaders, the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), for moving this measure swiftly through the Committee on the Judiciary.

On December 21 of last year, the United States Patent and Trademark Office issued its 500,000th design patent to the DaimlerChrysler Corporation for the design of the popular Chrysler Crossfire. House Concurrent Resolution 53, before us now, expresses the sense of Congress that the Patent and Trademark Office has contributed significantly to the reputation in the United States that we enjoy worldwide for our technological innovation and ingenuity.

This is a very distinguished commendation, and I am very proud of the Patent and Trademark Office, which has helped us in protecting and preserving intellectual property.

As a senior member of the Committee on the Judiciary, I am well aware of the importance of intellectual property protection and what it means to our economy. Intellectual property rewards and encourages innovation and advancement. Without it, we would not have the high-tech, biotech and everyday numerous inventions that we have come to rely upon in everyday life, and that we have permitted to be exported to all the concerns of the planet.

I am also proud of this patent because I happen to represent the automobile capital of the world still. It is no secret that Michigan boasts the finest automobile workers in the world, and it should be no surprise that it is the design of an American car that has received this award.

So for these reasons and others, I am so proud of my colleagues who have joined me in this presentation, the gentleman from Michigan (Mr. STUPAK); the gentleman from Michigan (Mr. DINGELL), the dean of the Congress; the gentleman from Michigan (Mr. ROOZENS); the gentleman from Michigan (Mr. KILDEE); the gentleman from Michigan (Mr. MCCOTTER); and the gentleman from Michigan (Mr. SCHWARZ), all. It is a proud moment for us, and we are glad to be honored.

On a more personal note, my father was a worker and union organizer for the United Automobile Workers for Chrysler, Local 7. It was the first company, Chrysler, to be brought into collective bargaining, and so I urge that the Members favorably consider House Concurrent Resolution 53.

Mr. WU. Mr. Speaker, I rise to strongly support H. Con. Res. 53, a resolution expressing the sense of Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office.

For over 200 years, the basic role of the United States Patent and Trademark Office, USPTO, has been to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries. Under this system of protection, American industry has flourished. New products have been invented, new uses for old ones discovered, and employment opportunities created for millions of Americans.

The strength and vitality of the U.S. economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs. The USPTO is indeed at the cutting edge of America’s technological progress and achievement.

As many of you may know, on December 21, 2004, the USPTO reached an important milestone and awarded the 500,000th design patent to DaimlerChrysler Corporation for the design of the Chrysler Crossfire. I would like to congratulate the USPTO and its employees for being at the core of our nation’s creative forces. It is with their commitment to excellence our Nation moved from a young nation to a world economic power that it is today.

As the Ranking Member on the House Science Subcommittee on Environment, Science and Standards and a former technology lawyer, I profoundly value the work of the USPTO, and urge my colleagues for their support for this important institution. As the 109th Congress moves to take up our FY06 appropriations bills, I look forward to working on ensuring a strong funding level for the USPTO.

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

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers. If the gentleman will yield back, we can vote and pass this resolution.

Mr. CONYERS. Mr. Speaker, I yield back my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 53.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to H. Con. Res. 167 to provide for the protection of intellectual property rights, and for other purposes.

The Clerk read as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Family Entertainment and Copyright Act of 2005.

TITLE I—ARTISTS’ RIGHTS AND THEFT PREVENTION

SEC. 101. SHORT TITLE.

This title may be cited as the “Artists’ Rights and Theft Prevention Act of 2005” or the “ART Act.”

SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) In General.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

"§ 2319B. Unauthorized recording of Motion pictures in a Motion picture exhibition facility.

"(a) OFFENSE.—Any person who, without the authorization of the copyright owner,
knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, or performance of such work in a motion picture exhibition facility, shall—

(1) be imprisoned for not more than 3 years and fined under this title, or both; or

(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The person by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in protecting testimony that such person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigatory, protective, or intelligence activity by an officer, agent, or employee of the United States, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

(d) PUNISHMENT.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summarizing a law enforcement officer; and

(2) shall be permitted for any civil or criminal action arising out of a detention under paragraph (1).

(e) VICTIM IMPACT STATEMENT.—

(1) In General.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim that might be mitigated or remedied by adequate recompense for the offense.

(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in the works described in subparagraph (A); and

(C) the legal representatives of such producers, sellers, and holders.

(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) TERM "COPY".—The terms "audiovisual work," "copy," "copyright owner," "motion picture," "motion picture exhibition facility," and "transmit" have, respectively, the meanings given those terms in section 101 of title 17.

(2) AUDIOVISUAL RECORDING DEVICE.—The term "audiovisual recording device" means a digital or analog photographic or video camera, any other technology or device capable of enabling the recording or transmission of a motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

(3) CRIMINAL INFRINGEMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

"2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility."

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "motion pictures" the following: "The term 'motion picture exhibition facility means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of persons of a normal circle of a family and its social acquaintances."

SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

"(a) CRIMINAL INFRINGEMENT.—

(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under subsection (b) of title 18, United States Code, if the infringement was committed—

(A) for purposes of commercial advantage or private financial gain; or

(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000; or

(C) by the distribution of a work being prepared for commercial distribution, if, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

(3) DEFINITION.—In this subsection, the term 'work being prepared for commercial distribution' means—

(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution—

(i) the copyright owner has a reasonable expectation of commercial distribution; and

(ii) at least one copy of the work have not been commercially distributed; or

(B) a motion picture, if, at the time of unauthorized distribution—

(i) has been made available for viewing in a motion picture exhibition facility; and

(ii) has not been made available in copies for sale or distribution in the United States in a format intended to permit viewing outside a motion picture exhibition facility.

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Whoever" and inserting "Any person who"; and

(B) by striking "and inserting" and inserting "or";

and

(d) IMMUNITY FOR THEATERS.

(1) IN GENERAL.—

(A) IMPRISONMENT.—If the offense is a second or subsequent offense, the defendant may be imprisoned for not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain; and

(B) if the offense is a second or subsequent offense, the defendant may be imprisoned for not more than 10 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain.

(c) AMENDMENTS.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended to insert the following:

"(3) in subsection (c), by striking "section 506(a)(1) of title 17", United States Code, and inserting "section 506(a)(1)(A)";"

(2) by redesignating subsections (d) and (e) as subsections (d) and (f), respectively; and

(3) by adding after subsection (c) the following:

"(4) Any person who commits an offense under section 506(a)(1)(B) of title 17—

(1) shall be imprisoned not more than 3 years, fined under this title, or both; and

(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain.

(d) DEFINITIONS.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

(g) DEFENSE.—In this section, the following definitions shall apply:

(1) TERM "COPY".—The term "copy" means—

(A) a deposit; and

(B) the applicable fee.

(4) EFFECT OF UNINTENTLY APPLICATION.—An action under this chapter for infringement of a work preregistered under this subsection, including in which infringement was commenced no later than 2 months after the first publication of the work, shall be dismissed if the defendant, described in paragraph (3) are not permitted by the Copyright Office in proper form within the earlier of—

(A) 3 months after the first publication of the work; or

(B) 1 month after the copyright owner has learned of the infringement.

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting "preregistration or" after "shall be instituted until".
(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting after ‘‘section 106A(a)’’ the following: ‘‘, an action for infringement of the copyright of a work that is protected under section 108(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months before the date of publication of the work or 1 month after the copyright owner has learned of the infringement.’’.

SEC. 105. FEDERAL SENTENCING GUIDELINES.

(a) AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 214 of title 28, United States Code, is amended by inserting

in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) subchapter III of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 214 of the Sentencing Act of 1987 (28 U.S.C. 994 note) though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in this subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of ‘‘uploading’’ set forth in application note 3 of section 108(f) of title 17, United States Code, and the guidelines is adequate to address the loss attributable to people who, without authorization, broadly distribute copyrighted works over the Internet;

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyrighted material has been reproduced in the public domain.

SEC. 201. SHORT TITLE.

This title may be cited as the ‘‘Family Movie Act of 2005’’.

SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking ‘‘and’’ after the period, and inserting ‘‘; and’’;

(2) by striking the period at the end and inserting ‘‘; and’’;

(3) by inserting after paragraph (10) the following:

‘‘(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed in a manner that allows a user to identify a member of a private household, for such making imperceptible, if no fixed copy of the altered version of the motion picture is created—

(1) by such computer program or other technology; and

(2) by adding at the end the following:

‘‘For purposes of paragraph (11), the term ‘making imperceptible’ means the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.’’;

Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other section of the United States Code;

(b) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

‘‘(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, who compiles with the requirements set forth in paragraph (3) shall not be liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice that such conduct is impermissible; provided, however, that such notice may not impair the performance of the motion picture that is altered from the performance intended by the director or copyright holder through the use of the limitations on liability in subparagraph (A), and the technology described in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensor, or licensor of technology that fails to comply with this paragraph.

(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the period beginning on the date of the enactment of the Family Movie Act of 2005.

(D) Any failure by a manufacturer, licensor, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference that any such party that engages in conduct described in paragraph (11) of section 110 of title 17, United States Code, is liable for trademark infringement by reason of such conduct.’’;

(c) DEFINITION.—In this section, the term ‘‘trademark’’ means the mark consisting of technology.

(d) Provisions of section 110 of title 17, United States Code, are applicable to persons engaged in conduct described in paragraph (11) of section 110 of such title.

(e) Nothing in paragraph (11) shall be construed to create an inference that any manufacturer, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference that any such party that engages in conduct described in paragraph (11) of such title.

(f) Nothing in paragraph (11) shall be construed to restrict the defenses or limitations on rights granted under this Act, nor shall it be construed to preclude liability, nor shall it be construed to preclude liability.

(g) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(h) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(i) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(j) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(k) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(l) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(m) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(n) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(o) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(p) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(q) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(r) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(s) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(t) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(u) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(v) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(w) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(x) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(y) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.

(z) Nothing in paragraph (11) shall be construed to preclude liability, nor shall it be construed to preclude liability.
“(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.”.

(d) Use of Seal.—Section 107(1) of the National Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is amended—

(1) in paragraph (1), by inserting “in any format” after “or any copy” and;

(2) by striking “or film copy” and inserting “in any format.”.

(e) Effective Date.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179y) is amended by striking “7” and inserting “13.”

Subtitle B—Reauthorization of the National Film Preservation Foundation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the “National Film Preservation Foundation Reauthorization Act of 2005”.

SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) Board of Directors.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “nine” and inserting “12”; and

(2) in subsection (b)(4), by striking the second sentence—“There shall be no limit to the number of terms to which any individual may be appointed.”.

(b) Powers.—Section 151705 of title 36, United States Code, is amended by striking “—” and inserting—

“‘(b) Powers.

(1) in subsection (b)(2)(A), by striking “—”;

(2) in subsection (b)(4), by striking the second sentence—‘‘There shall be no limit to the number of terms to which any individual may be appointed.’;’’.

(c) Reorganization of Orphan Works Board.—Section 151706 of title 36, United States Code, is amended by inserting “or another place as determined by the board of directors” after “District of Columbia.”.

(d) Authorization of Appropriations.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

“(a) Authorization of Appropriations.—

There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed $530,000 for each of the fiscal years 2005 through 2009. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.”.

(b) Relation to Administration Expenses.—Amounts authorized under this section may not be used by the corporation for the management of federally funded programs and services. The term “federally funded programs and services” means programs and services supported by the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.”.

TITLE IV—Preservation of Orphan Works

SEC. 401. SHORT TITLE.

This title may be cited as the “Preservation of Orphan Works Act.”


Section 108(i) of title 17, United States Code, is amended further by striking “or (b)” and inserting “or (b)”.

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

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

Mr. SENSENBRNEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 167, currently under consideration.

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

There was no objection.

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

Mr. Speaker, S. 167 includes several intellectual property-related measures that were considered during the previous Congress, but were unable to be acted on by both Houses prior to adjournment.

Notably, this legislation addresses the growing desire of parents to be able to control what their children see in the privacy of their own homes. One component of this legislation, the Family Movie Act, clarifies that existing copyright and trademark law cannot be used to prevent a parent from utilizing available technology to block portions of a movie they may find objectionable.

The legislation also addresses the rampant piracy problem facing our Nation’s creative community. New technologies have enabled the pirating of copyrighted works easier than ever before. The number of pirated films continues to increase, causing severe harm to the bottom line of our Nation’s copyright holders. Additionally, the theft, duplication, and mass distribution of copyrighted works represents a drain on our economy, shrinking the global demand for legitimately acquired works.

By setting forth Federal criminal penalties, this legislation addresses the serious problem of individuals using camcorders to record recently released movies that are then copied and sold on the black market. Additionally, this legislation establishes criminal penalties for distribution of a copyrighted computer program, musical work or motion picture by making it available on a computer network accessible to members of the public if the person knew, or should have known, that the work was a copyrighted work intended for commercial distribution.

Finally, this legislation reauthorizes the Film Preservation Board at the Library of Congress and corrects a technical error in the Sonny Bono Copyright Term Extension Act that had unintended effect of limiting the ability of libraries and archives to access older copyrighted works.

Mr. Speaker, I urge the Members to support this legislation.

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

Mr. BERMAN. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I rise in support of S. 167, and I ask my colleagues to join me in voting to pass this worthy legislation.

Prior to reporting S. 167 by voice vote last month, the Committee on the Judiciary gave the bill all due deliberation. The provisions in this bill and its precursor, H.R. 4077, which passed the House last year, were the subject of multiple subcommittee hearings and markups.

Through the extensive consideration given the provisions of S. 167, the Committee on the Judiciary has agreed to a bill that makes important contributions to the fight against the proliferation of pirated copyrighted works and that encourages the preservation and protection of creative content.

In addition to providing us with entertainment and education in the form of movies, sound recordings, software, books, computer games and other products, the core copyright industries account for over 6 percent of U.S. gross domestic product. Businesses that rely on intellectual property provide more than 1 million U.S. workers. Robust protection for creativity supports everyone from the most famous artist to the completely unknown set designer.

Unfortunately, copyright piracy has become a grave threat to the livelihoods of all copyright creators. We live in an environment where consumers want their choice of entertainment to be available at any time, in any place, in any format. While copyright owners are excited by the new opportunities to allow greater access to their works, they must battle with those that give away their products for free.

Pirates have taken over the ship of distribution and are using users with sound recordings before they are released, copies of movies for $1 on the street, and pirated computer software as part of the sale of computers. Without adequate copyright protection, the developers and owners of new and original works have no protection from the rampant theft of their work that goes on every day. While not a magic bullet, S. 167 will play a valuable role in addressing the piracy problem. Last year’s bill provided more robust protection. However, S. 167 contains important disincentives to the making of unauthorized use of a copyrighted work. It isolates a number of areas necessary to preserve the integrity of the works.

It has become clear that pirates are most harmful when a creator delivers a new or highly anticipated product. Title I of S. 167 is designed to prevent the copying of movies from digital prints and that encourages the preservation and protection of creative content.

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It has become clear that pirates are most harmful when a creator delivers a new or highly anticipated product. Title I of S. 167 is designed to prevent the copying of movies from digital prints and
a person who is camcording the movie. It also allows those affected by the crime to file a victim impact statement to illustrate the loss accrued by the piracy. This, hopefully, will deter those who contribute to the ease with which pirated material is obtained.

Even more detrimental to copyright owners than camcording a movie in the theaters is the effect of distributing an unauthorized copy of a movie or sound recording as it is prepared for commercial distribution. Pirated copies are available in the marketplace at a reasonable price. In section 402 of the bill, we have amended the Copyright Act to enable libraries and archives to reproduce, distribute, perform, and display copies of prerelease works, movies or otherwise, online. This bill also addresses consumer concerns related to preserving content in orphan works, those works not available in the marketplace at a reasonable price. In section 402 of the bill, we have revised the Copyright Act to enable libraries and archives to reproduce, distribute, perform, and display all orphan works in the course of their preservation, scholarly and research activities.

Furthermore, sections 902 and 312 ensure that the National Film Preservation Board and the National Film Preservation Foundation are reauthorized. These groups help maintain our history of film, which helps foster the creative process.

Title III of the legislation reauthorizes the Library of Congress, Title IV corrects a technical error in the Sonny Bono Copyright Term Extension Act that had the result of limiting library and archive access to certain works. Title I of the legislation focuses on prereleased copies of works that are distributed on computer networks before they are available in legal copies to the public.

Turning to other provisions within this bill, millions of pirated movies, software, and other copyrighted files are now available for a free download by certain peer-to-peer networks. Many of these files are the latest movies, music, software, and games that have yet to be released to the public in legal copies. Title I of the legislation focuses on these prereleased copies of works that are distributed on computer networks before they are available in legal copies to the public. Such activity is clearly wrong; yet existing law does not create a penalty targeted at this activity. Title I creates a minimum penalty of 3 years in jail for those who undertake such activity. Combined with the camcording provisions in title I, this legislation provides new and tougher penalties on organized groups that camcording movies on the first day of their release and then distribute pirated DVDs the following day on streets worldwide.

Title III of the legislation reauthorizes the Film Preservation Board at the Library of Congress. Title IV corrects a technical error in the Sonny Bono Copyright Term Extension Act that had the result of limiting library and archive access to certain works.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 5 minutes to my colleague, the gentlewoman from California (Ms. WATSON), the founder and chair of the Congressional Entertainment Caucus, and a very diligent fighter for the protection of intellectual property and the vibrancy of an industry very important to our area and to the country.
Ms. WATSON. Mr. Speaker, I rise in support of S. 167, the Family Entertainment and Copyright Act of 2005, which strengthens our Nation’s intellectual property rights system and further protects and rewards our Nation’s artists for their creative products.

I supported this bill during the last Congress, and I look forward to seeing its enactment in the coming weeks. This bill closes several significant gaps in our copyright laws that have contributed to the epidemic of digital piracy today. It outlaws camcording of movies off of theater screens by making it a Federal crime. It also empowers judges to impose up to 5-year prison terms for persons convicted of distributing copyrighted songs and movies on file-sharing networks for financial gain. I believe these provisions create crucial tools to combat the theft and redistribution of valuable intellectual property.

With our movie industry losing about $3 billion to piracy every year, it is time that Congress demonstrates its support for our Nation’s creators and artists by strengthening protection of copyrighted products. In addition, the bill strengthens our Nation’s film heritage by reauthorizing the National Film Preservation Board and the National Film Preservation Foundation that have worked successfully to preserve historically or culturally significant films. Their fine work will ensure our collective artistic heritage will be preserved for future generations.

Finally, I want to point out that despite my overall support for the bill, I disagree with title II of the legislation, which shields companies that make movie-filtering systems from liability for copyright infringements. The intent of the movie-filtering technology is to allow parents to protect children. While I support a family-friendly entertainment, I believe this method is not only a violation of film makers’ copyright protections but also an infringement of their artistic vision.

Just yesterday, the Washington Post reported that companies sanitizing films removed 24 minutes from the part of the movie “Saving Private Ryan” depicting the landing at Omaha Beach on D-Day and eliminated racial epithets uttered by police officials against African American boxer Rubin Carter in “The Hurricane.” Both are central to the themes of the movies. Such editing may be done in the name of protecting children, but often reflect our political or ideological biases of the censors. I want to make it clear that my general support of the bill is no way an endorsement of film sanitization.

Mr. Speaker, I urge my colleagues to support S. 167, and it is my hope that we will keep the dialogue open regarding the ever-changing landscape of technology, censorship, and creativity in our country.
without permission from the filmmakers. This was proposed in response to a lawsuit between one company and filmmakers. From our consideration of this provision last year, we know this section inserts Congress into a private dispute and will take away the copyrights and artistic rights of filmmakers to the financial benefit of one private company. It is important to note that the bill does not immunize those who make fixed copies of edited content; such copies would still be illegal, as they are today, and the legislative history should reflect that.

I urge my colleagues to vote “yes” on this legislation.

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

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

The SPEAKER pro tem (Mr. Issa). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 167.

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

A motion to reconsider was laid on the table.

MULTIDISTRICT LITIGATION
RESTORATION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1038) to amend title 28, United States Codes, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes.

The Clerk read as follows:

H.R. 1038

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 “Multidistrict Litigation Restoration Act of 2005”.

SEC. 2. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended—

(1) in the third sentence of subsection (a), by inserting “or ordered transferred to the transferee court under subsection (1)” after “terminated”; and

(2) by adding at the end the following new subsection:

“(1) Subject to paragraph (2) and except as provided in subsection (1), any action transferred under this section by the panel may be transferred for trial purposes, by the judge to whom the action was assigned, to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

“(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interest of justice, that the action should be retained for the determination of compensatory damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

“(3) Any appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

“(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

“(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.”

SEC. 3. EFFECTIVE DATE.

(a) Section 2—The amendments made by section 2 shall apply to any civil action pending on or brought on or after the date of the enactment of this Act.

(b) Section 3—The amendment made by section 3 shall be effective if enacted in section 1202(b) of the Multidistrict Litigation Restoration Act of 2002 (Public Law 107–273; 116 Stat. 1826 et seq.).

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

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

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and in any material on H.R. 1038, the bill currently under consideration.

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

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

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

Mr. SENSENBRENNER. Mr. Speaker, H.R. 1038, the Multidistrict Litigation Restoration Act of 2005, reverses the effect of a 1998 Supreme Court case commonly referred to as “Lexecon,” which has hampered the Federal court system from adjudicating complex, multidistrict cases that are related by a common fact situation. Just as importantly, the bill functions as a technical correction to a related “disaster litigation” provision that was incorporated in the Department of Justice Authorization Act, which Congress passed in 2002.

A little background is in order at this point. During the 107th Congress, I authored legislation to address the Lexecon and disaster litigation problems. As passed under suspension by the House, my bill, H.R. 860, accomplished two goals: First, the bill reversed the effect of the Lexecon case which dealt with the authority of a specially designated U.S. district court to handle complex multidistrict cases consolidated for trial. Pursuant to the decision, the court known as the “transferee” court could retain Federal and State cases only for pretrial matters, but not the actual trials themselves.

H.R. 860 simply codified existing practice of the preceding 30 years by allowing the transferee court to retain jurisdiction for the purpose of determining liability and punitive damages, or to refer the cases back to those courts in which the cases were originally filed. This feature streamlines adjudication and enables the transferee court to induce the parties to settle.

Second, H.R. 860 conferred original jurisdiction on U.S. district courts to adjudicate any civil action arising out of a single accident under favorable conditions, but would remand the case to the State courts for determination of compensatory damages. This portion of H.R. 860 is commonly referred to as the “disaster litigation” part of the bill.

The Committee on the Judiciary in the other body took no action on H.R. 860, but the matter was resurrected during House-Senate conference deliberations on the Department of Justice authorization bill. Pursuant to negotiations, the conferees agreed to take half of H.R. 860, the disaster litigation portion, which is currently codified as section 1369 of title 28 of the U.S. Code.

Trying to enact a straight Lexecon fix through the bill before us is meritorious in its own right, promoting as it does judicial efficiency, but there is another problem that the bill solves. The currently codified disaster litigation portion of H.R. 860 contemplates that the Lexecon problem is solved. In other words, the disaster litigation law only creates original jurisdiction for a U.S. district court to accept those cases and qualify as a transferee court.
under the multidistrict litigation statute; but the transferee court still cannot retain the consolidated cases for determination of liability and punitive damages, which compromises the operation of the statute.

In this sense, the Lexecon fix, its freestanding merits aside, also functions as a technical correction for the recently enacted disaster litigation measure. H.R. 1038, in tandem with the now-codified disaster litigation provisions, is what was originally intended when legislation addressing this issue was first proposed, a fix to the Lexecon problem and a disaster litigation measure that really works.

I remind Members that H.R. 1038 is identical to H.R. 1768 from the 108th Congress, which passed the House by a rollcall vote of 418-0. In sum, this legislation speaks to process, fairness and judicial efficiency. It will not interfere with jury verdicts or compensation rates for litigants.

Mr. Speaker, I include for the RECORD a letter from the U.S. Judicial Conference stating their strong support for enactment of H.R. 1038. I urge my colleagues to join me in a bipartisan effort to support this bill.

JUDICIAL CONFERENCE OF THE UNITED STATES
Washington, DC, April 18, 2005.

Hon. F. James Sensenbrenner, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

Dear Mr. Chairman:
The Judicial Conference of the United States strongly supports enactment of H.R. 1038, the “Multidistrict Litigation Restoration Act of 2005,” which you introduced on March 2, 2005 and which was favorably reported by the House Judiciary Committee on March 17, 2005. H.R. 1038 will facilitate the resolution of claims by citizens and improve the administration of justice.

Currently, section 1407(a) of title 28, United States Code, the multidistrict litigation statute, authorizes the Judicial Panel on Multidistrict Litigation, the Judicial Panel, to transfer civil actions with common questions of fact that are pending in multiple federal judicial districts “to any district for coordinated or consolidated pretrial proceedings.” It also requires the Judicial Panel to remand any such action to the district court in which the action was filed at or before the trial date promotes the resolution of these cases.


The Judicial Conference appreciates your support of H.R. 1038. If you or your staff have any questions, please contact Mark W. Braswell or Karen Kremer, Counsel, Office of Legislative Affairs (202-522-7180).

Sincerely,
Leonidas Ralph Mecham, Secretary.

Mr. Sensenbrenner. Mr. Speaker, I reserve the balance of my time.
(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, or carried or used in connection with services which are rendered under the provisions of the Trademark and Copyright Act of 1909, and for other purposes” approved July 5, 1946 (15 U.S.C. 1031 et seq.).

SEC. 2. DILUTION BY BLURRING; DILUTION BY TARNISHMENT.

Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) DILUTION BY BLURRING; DILUTION BY TARNISHMENT.—

“(1) INJUNCTIVE RELIEF.—Subject to the principles of equity, the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner’s mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

“(2) DEFINITIONS.—(A) For purposes of paragraph (1), a mark is famous if it is widely recognized by the general consuming public of the United States as a mark or trade name of goods or services of the owner’s mark.

(B) For purposes of paragraph (1), ‘‘blurring’’ is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

(i) The duration, extent, and geographic reach of advertising and publicity of the mark, whether advertised or publicized by the owner or third parties.

(ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.

(iii) The extent of actual recognition of the mark.

(C) For purposes of paragraph (1), ‘‘dilution by blurring’’ is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

(i) The degree of similarity between the mark or trade name and the famous mark.

(ii) The degree of inherent or acquired distinctiveness of the famous mark.

(iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark.

(iv) The degree of recognition of the famous mark.

(v) Whether the user of the mark or trade name intended to create an association with the famous mark.

(vi) Any actual association between the mark or trade name and the famous mark.

(D) For purposes of paragraph (1), ‘‘dilution by tarnishment’’ is association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

(3) EXCLUSIONS.—The following shall not be actionable as dilution by blurring or dilution by tarnishment under this subsection:

(A) For example, a mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.

(B) For example, a famous mark by another person, other than as a designation of source for the person’s goods or services, including for purposes of advertising and parroting, criticizing or commenting upon the famous mark owner or the goods or services of the famous mark owner.

(C) All forms of news reporting and news commentary regarding the famous mark.

(4) ADDITIONAL REMEDIES.—In an action brought under this subsection, the owner of the famous mark shall be entitled only to injunctive relief as set forth in section 34, except that, if—

(A) the person against whom the injunction is sought did not use in commerce, prior to the date on which the petition for cancellation of the trademark Registration Act of 2005, the mark or trade name that is likely to cause dilution by blurring or dilution by tarnishment, and

(B) in a claim under this subsection—

(i) by reason of dilution by blurring, the person against whom the injunction is sought willfully intended to harm the reputation of the famous mark, or

(ii) by reason of dilution by tarnishment, the person against whom the injunction is sought willfully intended to harm the reputation of the famous mark.

(4) DEFINITIONS.—Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by striking the definition relating to ‘‘dilution’’.

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

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

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 683 currently under consideration.

The SPEAKER pro tempore (Mr. Issa). Is there objection to the request of Mr. SENSENBRENNER?

There was no objection.

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

Mr. Speaker, the foundation of trademark law is that certain words, images, and logos convey meaningful information to the public, including the source, quality, and goodwill of a product or service. Unfortunately, there are those in both commercial and non-commercial settings who would seize upon the popularity of a trademark for their own purposes and at the expense of the rightful owner and the public. Dilution refers to conduct that lessens the distinctiveness or reputation of a mark. This conduct can debase the value of a famous mark and mislead the consuming public.

A 2003 Supreme Court decision, Moseley v. V Secret Catalogue, Inc., during the last Congress, to review the Federal Trademark Dilution Act and a committee print to amend it. The contents of the bill before us were largely culled from that committee print.

H.R. 683 does not establish new prece- dent or break new ground. Rather, the bill represents a clarification of what Congress meant when it passed the di- lution statute a decade ago. Enactment of this bill is necessary because it will eliminate confusion on key dilution issues that have increased litigation and resulted in uncertainty among the regional courts.

The primary components of H.R. 683 include the following: one, subject to the principles of equity, the owner of a famous distinctive mark is entitled to an injunction against any person who commences use in commerce of a mark that is likely to cause dilution by blurring or tarnishment.

Second, a mark may be ‘‘famous’’ only if it is widely recognized by the general consuming public in the United States as a source designation of the goods or services of the mark’s owner.

Third, in determining whether a mark is famous, a court is permitted to
consider “all relevant factors” in addition to prescribed conditions set forth in the print, including the duration, extent, and geographic reach of advertising and publicity of the mark.

Fourth, H.R. 683 clarifies the definition of dilution by blurring, as well as by tarnishment.

Fifth, the bill enumerates specific defenses to a dilution action: comparative commercial advertising or promotion to identify competing goods; all forms of news reporting and news commentary; and traditional fair uses pertaining to parody, criticism, and commentary.

Sixth and finally, other than an action based on dilution by blurring, the owner of a famous mark is only entitled to injunctive relief under H.R. 683 if the defendant willfully intended to trade on the famous mark’s recognition; or in an action based on dilution by tarnishment, the defendant willfully intended to trade on the famous mark’s reputation.

In either case, the owner may seek damages, costs, and attorneys’ fees as well as the destruction of the infringing articles under separate Lanham Act provisions.

In sum, this bill will provide greater protection for owners of famous trademarks from subsequent uses that blur the distinctive nature of the mark or tarnish or disparage it. By lowering the standard, proof of actual harm would no longer be a prerequisite to injunctive relief and therefore extensive damage cannot be done before relief can be sought. Furthermore, the bill includes a clear reference to dilution by tarnishment. This allows the trademark owner to protect his mark from associations which harm the reputation of the famous trademark. The bill narrows the reach of a dilution cause of action. It tightens the definition of fame by providing a specific list of factors, and eliminates the protection for marks that are famous only in niche markets.

While not universally supported, this bill has now garnered the support of the ACLU for accommodating its first amendment concerns. In section 2(c)(1), the bill addresses ‘the cumulative effect’ of all forms of news reporting and commentary, including parody, criticism, and fair use. These amendments provide balance to the law by strengthening traditional fair-use defenses.

Mr. Speaker, in sum, H.R. 683 clarifies a muddied legal landscape and enables the Federal Trademark Dilution Act to operate as Congress intended.}

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 19) providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

PROVIDING FOR APPOINTMENT OF SHIRLEY ANN JACKSON TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 19) providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States of America, Shirley Ann Jackson is hereby appointed to be a citizen regent of the Board of Regents of the Smithsonian Institution, to hold her office for the term of her good behavior.

Passed by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring, April 19, 2005.

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 19) providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

PROVIDING FOR APPOINTMENT OF SHIRLEY ANN JACKSON TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

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Passed by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring, April 19, 2005.
Dr. Jackson has been a pioneer in many of her endeavors as well. She is the first African American woman to receive a doctorate from MIT, the first African American to become a commissioner and chairman of the U.S. Nuclear Regulatory Commission, and the first African American woman elected to the National Academy of Engineering.

Her accomplishments in the field of physics and her leadership as the head of a national research university provide her with tremendous experience that will benefit the Smithsonian's board.

Dr. Jackson is currently President of the American Association for the Advancement of Science, and she was named one of seven 2004 Fellows of the Association for Women in Science.

In addition to her experience, Dr. Jackson has received the Golden Torch Award for Lifetime Achievement in Academia from the National Society of Black Engineers. She has been inducted into the National Women's Hall of Fame, and she has been recognized in such publications as Discover and Industry Week magazines and the Essence book, 50 of The Most Inspiring African Americans.

I could go on and on because I have merely scratched the surface of Dr. Jackson's numerous achievements, as well as the honors and awards she has received. But I will conclude by saying that it should be very clear that Dr. Shirley Ann Jackson would be a tremendous addition to the Smithsonian Institution's governing board. It will be an honor and pleasure to have her serve on that board, and I ask my colleagues to support House Joint Resolution 19.

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

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

Mr. Speaker, I rise today in support of House Joint Resolution 19. I am pleased to be here on the floor with my distinguished colleague from New York to talk about the appointment of Shirley Ann Jackson as a citizen regent of the Smithsonian Institution's Board of Regents.

The Smithsonian's governing board is comprised of 17 members. These members include the Chief Justice of the Supreme Court, the Vice President of the United States, six Members of Congress, and nine citizens who are nominated by the board and approved jointly in a resolution of Congress. The nine citizen members serve for a term of 6 years each and are eligible for reappointment to one additional term.

Shirley Ann Jackson will fill a vacancy on the board created with the departure of Hanna Gray. Shirley Ann Jackson is the 18th president of Rensselaer Polytechnic Institute and the first African American woman to lead a national research university.

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

Mr. Speaker, I rise today in support of House Joint Resolution 19. I am pleased to be here on the floor with my distinguished colleague from New York to talk about the appointment of Shirley Ann Jackson as a citizen regent of the Smithsonian Institution.

As the chairman pointed out, Dr. Jackson is the 18th President of Rensselaer Polytechnic Institute, a leading national research university, which I am proud to say is located in my congressional district in the great city of Troy, New York, and I am also proud to say that Shirley Ann Jackson is a constituent.

Dr. Jackson is widely recognized for her intelligent, compassionate problem-solving abilities and her promotion of women and minorities in science. Dr. Jackson is currently the President of the American Association for the Advancement of Science and is a director of many major corporations, including FedEx and AT&T.

She is also a member of the New York Stock Exchange Board of Directors, the Council on Foreign Relations, the National Academy of Engineering, the National Advisory Council on Biomedical Imaging and Bioengineering at NIH, the U.S. Comptroller-General's Advisory Committee for the GAO, and the Executive Committee of the Council on Competitiveness.

She is also a Fellow at the American Academy of Arts & Sciences and is a trustee of Georgetown University, Rockefeller University, Emma Willard School, and the Brookings Institution.

As the chairman pointed out, she is the recipient of many awards and honors, including life membership on the MIT Board of Trustees.

A native of Washington, D.C., Dr. Jackson received both her B.S. in physics and her Ph.D. in theoretical elementary particle physics from MIT. Dr. Jackson also holds 32 honorary doctoral degrees.

Mr. Speaker, as the chairman pointed out, Dr. Jackson is uniquely qualified for this position, and I urge adoption of the joint resolution.

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

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

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

I am delighted again to refer this resolution to my colleagues for their consideration and support. Dr. Jackson is a great friend. She is a constituent. She is an outstanding American and a great humanitarian, and I urge adoption of the joint resolution.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

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

Mr. NEY. 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.

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the joint resolution, H.J. Res. 19.

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

There was no objection.

PROVIDING FOR APPOINTMENT OF ROBERT P. KOGOD TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 20) providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.J. Res. 20
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Weley S. Williams, Jr., of the District of Columbia, on April 13, 2005, is filled by the appointment of Robert P. Kogod of the District of Columbia. The appointment is for a term of 6 years, beginning on the later of April 14, 2005, or the date of the enactment of this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

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

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

Again, Mr. Speaker, it is a pleasure to be here with my friend and colleague...
from New York, and we appreciate his support of these resolutions.

I rise in support of House Joint Resolution 20, which provides for the appointment of Robert P. Kogod as a citizen regent of the Smithsonian Institution’s Board of Regents.

Robert Kogod is the second nomination we are considering today. He is expected to fill the vacancy created by the departure of Wesley Williams.

Mr. Kogod is the former co-chairman and co-chief executive officer of the Charles E. Smith Realty Companies. The Smith Companies he headed pioneered mixed-use development in the Washington, DC area, which puts residential, office, and retail buildings in close proximity.

Mr. Kogod and his wife, Arlene, are renowned philanthropists. In 1979 the Robert and Arlene Kogod School of Business at American University was named in honor of a major gift from the Kogods. They also helped establish the Institute for Advanced Jewish Research, within the Shalom Hartman Institute in Jerusalem. The Kogods are also recognized collectors of American crafts, art deco, and American art. They are longstanding members of the Smithsonian’s American Art Forum and Archives for American Art.

Mr. Kogod has also served as a member of the Smithsonian Washington Council, and he is currently serving as a special adviser to Secretary Small on the Patent Office Building renovation project.

He serves as a trustee and adviser to the President of American University, which is where he also earned his bachelor’s degree in 1962. He possesses an extensive background in business, philanthropy and art. His diverse experiences will make him an excellent candidate to serve on the Smithsonian Institution’s governing board.

I support House Joint Resolution 20 and ask for its adoption.

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

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

Before we proceed with this next nomination, I also want to congratulate the gentleman from California (Mr. BECerra), the newest congressional regent at the Smithsonian Institution, who replaces our late friend and colleague, Bob Matsui.

Mr. Speaker, I join the chairman in urging the adoption of House Joint Resolution 20 to elect Robert P. Kogod, a renowned philanthropist and real estate developer, to a 6-year term as a citizen regent of the Smithsonian Institution.

Mr. Kogod has a long record of service with the Smithsonian Institution, having served as a member of the Smithsonian Washington Council; as a special adviser, as the chairman said, to Secretary Small; and as a member of the American Art Museum’s American Art Forum.

Mr. and Mrs. Kogod, as the chairman pointed out, are noted collectors of American crafts, art deco, and American art and have provided major gifts to the American University School of Business, which is named for them; and to the Shalom Hartman Institute in Jerusalem, which promotes Jewish thought and education; and to the Corcoran Gallery of Art, among many others.

Mr. Kogod also serves on the American University Board of Trustees. And for many years Mr. Kogod was co-chairman and chief executive officer of Charles E. Smith Realty Companies, which pioneered mixed-use real estate development in the Washington, DC metropolitan area.

Mr. Speaker, I join the chairman in strongly urging my colleagues to support House Joint Resolution 20.

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

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

I just want to reiterate that Mr. Kogod is a person who is going to enhance and add so much to the board, and we are so pleased today to be making this resolution to put him on the board.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to support the appointment of Robert P. Kogod as a citizen regent of the Smithsonian Institution.

Bob received a B.S. in 1962 from American University located in Washington, DC. He joined the Smith Companies in 1959 where he served as president, chief executive officer and director until 2001. Rob is a member of the boards of directors of Vornado Realty Trust and Archstone-Smith Trust. Bob also serves as President of the Hartman Institute in Jerusalem which is home to the Kogod Institute for Advanced Jewish Research.

In 1979, the Kogod School of Business at American University was named in honor of a major gift from the Kogods.

Bob and his wife Arlene have demonstrated their deep commitment to excellence in the field of education, as well as their passion for the Washington, DC area. Their support of the Smithsonian Institution is evident in their contributions to the American Art Forum and the Archives for American Art. They are longstanding members of the Smithsonian American Art Museum’s American Art Forum and the Archives for American Art. Bob previously has served as a member of the Smithsonian Washington Council and is currently serving as special advisor to Secretary Small on the Patent Office Building renovation project.

Mr. Speaker, in closing, I would like to express my support for the appointment of Bob Kogod as a citizen regent of the Smithsonian Institution.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Ney) that the House suspend the rules and pass the joint resolution, H.J. Res. 20.

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. NEY. 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. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the joint resolution, H.J. Res. 20.

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

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o’clock and 25 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEARCE) at 6 o’clock and 31 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 683, by the yeas and nays; H.J. Res. 19, by the yeas and nays; and H.J. Res. 20, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

TRADEMARK DILUTION REVISION ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 683, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENNINGER) that the House suspend the rules and pass the joint resolution, H.J. Res. 20.

The question was taken.
The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 15, as follows:

**[Roll No. 109]**

### YEAS—411

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The Clerk read the title of the joint resolution.

**The SPEAKER pro tempore.** The question is on the motion offered by the gentleman from Ohio (Mr. NTEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 19, 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 417, nays 0, not voting 17, as follows:

**[Roll No. 110]**

### YEAS—417

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Mr. COSTELLO changed his vote from “yea” to “nay.”

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The Speaker pro tempore.

Mr. FOSSIELLA. Mr. Speaker, on rollocall No. 109 I was inadvertently deained. Had I been present, I would have voted “yea.”

**PROVIDING FOR APPOINTMENT OF SHIRLEY ANN JACKSON TO BOARD OF REGENTS OF SMITHSONIAN INSTITUTION**

The Speaker pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 19.
The clerk read the title of the joint resolution, H.J. Res. 20. The Speaker pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the joint resolution, H.J. Res. 20, on which the yeas and nays are ordered.

The joint appeal having been filed, the Chair announces the vote as yeas 412, nays 0, the vote being by electronic device.

[Roll No. 111]

The result of the vote was announced by the Clerk.

NORTHERN DISTRICT OF NEW YORK

[April 19, 2005]

CONGRESSIONAL RECORD — HOUSE

H2127

Mr. BRADLEY of New Hampshire. Mr. Speaker, on roll call No. 110 I was inadvertently detained. Had I been present, would have voted "yea."

Providing for appointment of Robert P. Kogod to board of regents of Smithsonian institution

The Speaker pro tempore (Mr. PEARCE). The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 20.

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF INSPECTOR GENERAL FOR HOUSE OF REPRESENTATIVES FOR 109TH CONGRESS

The Speaker pro tempore (Mr. PEARCE). Pursuant to clause 6 of rule II, and the order of the House of January 4, 2005, the Chair announces the joint appointment by the Speaker, majority leader, and minority leader of Mr. Steven A. McNamara of Sterling,

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announcement policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NO FLY, NO BUY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes.

Mrs. McCARTHY. Mr. Speaker, for years people have been hearing me talk about gun violence in this country, and the debate over tougher gun laws have been defined as "social issues."

Gun violence has had tragic consequences for so many families, including my own. Gun violence presents a tremendous burden to our police departments, and I see it in my own district on Long Island where we are dealing with so many gangs. With the expiration of the assault weapons ban, many police departments will be outgunned by gangs and criminals. That is why basically we had the assault weapons ban put in place back in 1994.

Gun violence also costs this society over $100 billion a year. Most of that $100 billion is paid with tax dollars. It is estimated each shooting costs our economy $1 million in health care, police work, and lost productivity.

Mr. Speaker, the social costs of gun violence are ever increasing, but since September 11, the threat of gun violence has become an important homeland security issue as well.

We are at war, and our lack of tough gun laws allows our enemies to arm themselves right here in our country. People can go to gun shows and be able to buy guns. They can go into gun stores across this country with a false ID and be able to buy guns. We know through the FBI that 44 times just since January the terrorists that have been on a no-fly list have been able to go and buy those guns. In all but nine instances, the purchases were allowed to go through. Affiliation with a terrorist group does not appear on any background checklist whatsoever.

There certainly have been many more instances of suspected members of terrorist groups trying to buy guns in this country. The Justice Department destroys background check records after only 24 hours, we will never know, unfortunately, until there is a tragedy.

So not only are we allowing suspected terrorists to arm themselves, we are also destroying the records indicating how many guns they have bought and how many they own. We are destroying critical intelligence in the war on terror.

The question my constituents ask me all the time is when I go around the country and speak is, "Why are these people allowed to buy guns in the first place?" It defies common sense. We saw what these terrorists are capable of, armed with only box cutters purchased at a hardware store; and starting last week, people are not even allowed to bring a cigarette lighter onto a plane. Then why do we make it so easy for our enemies to buy firearms and ammunition with our backs?

Since 9/11 we have adopted a multitude of new laws in the wake of the war on terror, and I agree with those laws. Under a previous order of the House, the Speaker

RHETORIC VS. REALITY, SOCIAL SECURITY DEFINED

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to clarify a few points about strengthening and preserving Social Security.

Unfortunately, partisan opposition groups are playing word games with Social Security reform. Let me tell the Members what these words mean to the everyday American.

Privatization means taking Social Security completely out of the hands of government and turning the program over to a private entity. I will never support privatization of Social Security.

Personal accounts means giving younger workers a choice to invest a portion of their tax dollars into safe and secure accounts. Most importantly, these accounts would be owned by the individuals and protected from the D.C. practice of using these funds for general spending. This is not privatization.

I would hope that instead of slinging half-truths and misrepresentations, those groups opposed to any sort of reform in Social Security consider the choices of their own and meet Republicans at the negotiating table in a productive, constructive manner.
night. We have cut back on our police officers; we have let the assault weapons bill expire; we now cannot even have our police officers check to see if a criminal has bought a gun because in 24 hours the records are destroyed.

We are not going in the right direction. We can make a difference. I hope people will support this bill.

THANKING OUR ARMED FORCES FOR THEIR COURAGE, DEDICATION, AND BRAVERY

The SPEAKER pro tempore (Mr. Poe). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to thank the men and women of our Armed Forces for the courage and the dedication that they have shown by liberating Iraq from tyranny and terrorism. Through their hard work and dedication, these Marines, sailors, airmen, and soldiers have succeeded in defeating terrorism and giving birth to a new democracy in the Middle East, one that will serve as a model for the entire region.

Every day, U.S. forces transfer more security responsibilities to Iraqis, giving them the tools that they need to secure their nation. Today, there are more than 150,000 Iraqi security forces who have been trained and equipped by the United States and our coalition forces. Iraqis now patrol Baghdad’s hotspots, parts of Mosul, Fallujah, and Saddam’s hometown of Tikrit.

Every week, between 1,500 and 3,000 new Iraqi security forces enter active duty, joining the U.S. and coalition forces in our joint battle against terrorism and securing Iraq from tyranny and terrorism. Through their hard work and dedication, these Marines, sailors, airmen, and soldiers have succeeded in defeating terrorism and giving birth to a new democracy in the Middle East, one that will serve as a model for the entire region.

After 9/11, President Bush decided to take the fight to the terrorists; and, once again, our Armed Forces answered the call to service. Ever since, U.S. and coalition forces have spectacularly defeated Saddam’s tyrannical regime and transformed Iraq for the better. Those who were once oppressed now rule Iraq, holding the highest offices of a democracy.

Having accomplished the great task of liberating the Iraqi people from the scourge of terrorism, our forces have remained in place to rebuild the country. Our men and women in the military have built schools, hospitals, and other infrastructure to improve the lives of ordinary Iraqi citizens. They have restored electricity and water to the Iraqis who have suffered from three wars in one generation. Roads and bridges are being repaired to increase commerce. Our soldiers have been able to accomplish this and so much more, even though murderous insurgents try at every turn to thwart their progress.

The valor and the courage of our Armed Forces in the face of this enemy have been critical to the reconstruction of Iraq. This was exemplified by the recent visit of our Deputy Secretary of State to the once-terrorist stronghold of Fallujah.

I am proud that my stepson, Aviator First Lieutenant Douglas Lehtinen, is preparing to deploy to Iraq. He will join the thousands of U.S. soldiers who are bravely fighting to guarantee that future generations of Iraqis will not have to suffer under tyranny.

Some of these soldiers, such as my husband, retired First Lieutenant Dexter Lehtinen, as a platoon leader in Vietnam, have paid dearly for the freedom that so many of us take for granted. My husband, Dexter, was wounded by a grenade that almost took his life. Instead, today he carries the scars of battle to remind us that while freedom may not be free, it is always worth fighting for.

I am proud that my stepson, Dougie, chose to volunteer to protect his family, friends, and strangers. He believes that by liberating Iraq, our military have built schools, hospitals, and homes. They have restored electricity and clean water to the lives of ordinary Iraqi citizens. They have restored electricity and clean water to the lives of ordinary Iraqi citizens.

FOCUSING ON CONSTRUCTIVE SOLUTIONS TO U.S. IMMIGRATION POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. GUTIERREZ) is recognized for 5 minutes.

Mr. GUTIERREZ. Mr. Speaker, I rise this evening to begin what I hope will be the start of a constructive dialogue about our Nation’s immigration laws.

There has been a lot of heated rhetoric about this topic in recent months. But what I believe has been lacking from this debate is a discussion of real solutions and an accurate portrayal of the real contribution of our Nation’s immigrant community.

In Congress, on cable shows and in the middle of these celebrity shows and in newspaper columns across the country, we witness undocumented workers being unfairly and inaccurately blamed for all of our Nation’s ills. In fact, it seems as though there are some cable shows who have made this practice the cornerstone of their programming. Just look at Lou Dobbs and his “Broken Borders” segment. If you ask me, it should be called the “Broken Record” segment. Because, instead of giving a platform to anti-immigrant extremists so they can espouse their misguided, misleading, and often malicious views.

Mr. Speaker, I am the first to admit that our Nation’s immigration system is simply not working. It is not meeting the needs of our Nation, it is damaging families, and it is hurting businesses. But rather than targeting Windex-wielding cleaning ladies, we should be talking about practical solutions.

Do these individuals actually believe they can deport the more than 10 million undocumented working men and women working in this country? Do they think that is truly the answer? Let us say they say yes. Do they think our Nation has the will or the requisite resources to round up these individuals and ship them all off? If that is the case, I would simply ask them, what would life be without the more than 700,000 undocumented restaurant workers washing dishes and cleaning tables, 250,000 household employees, or the almost million farm workers? These industries where these workers toil would literally come to a screeching halt if not for their labor.

Their absence would cripple entire communities. Fruits and vegetables would rot on the vine, office buildings and hotels would go uncleaned, and children would go unattended.

So this evening, I thought I would set the record straight and give the folks at CNN and other news outlets a little unsolicited editorial advice. I think we should be talking in this country about mending borders, rather than a segment about broken borders, why not create a segment about the millions of workers and farm workers on your stations? How about a segment where elected officials, policy analysts, and immigration experts on all sides of the political spectrum discuss ideas and proposals for fixing our flawed immigration policy.

I wish I could turn on the television set tonight and see a poster like this, seen here courtesy of Rick Nahmias. This is the face of our immigrant community, right here, Mr. Speaker. It is back-breaking, thankless labor. These men and women are exposed to dangerous pesticides and punishes by brutal working conditions.

They lack safety equipment and have no place to send their children to school. Many of these workers wake up at 2 in the morning to take a bus to our fields, and they do not return until long after dark.

But this is why we have fresh fruits and vegetables at our grocery stores and on our kitchen tables. It is men and women like this in this poster who sustain our $30 billion agricultural industry.

According to the Department of Labor, at least half the 1.8 million crop workers in the U.S. are undocumented. That is the Federal Government.

I would like to show the next poster, one we never see on TV. The subtitle of the article is “Jobs Americans Won’t Do.” I wish everybody would read the front page of The Wall Street Journal on March 11. The Wall Street Journal focuses on workers who have found workers. For example, ahead of a recent lettuce harvest, one grower took out ads in local papers for field workers to pick up the lettuce. He needed about 350 workers. The grower got a response. It was just one reply. Mr. Speaker, the simple truth is our aging, more educated workforce is unwilling to pick the lettuce.
I do not blame them. It is truly arduous work. So rather than attacking immigrants for filling these important jobs and for sustaining our vital agricultural industry, let us talk about creating a system that allows them to come here legally and safely and humanely. Rather than unfairly attacking immigrants for draining entitlements, let us talk about the undocumented workers who are here in this country and, according to the Social Security Administration, subsidize our Social Security system by $7 billion. Unfortunately, I have yet to see a segment about this on the cable channels.

Mr. Speaker, rather than focusing on the fiery rhetoric that boosts cable ratings, I would rather we focus on the words of the late Pope, John Paul II, who said, Undocumented migrants are the most vulnerable of foreigners. With those words as our guide, I hope we can work together to create an immigration system that is reflective of their enormous contribution and the greatness of this Nation.

MOURNING THE LOSS OF PRIVATE AARON HUDSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I received an announcement this morning from the Department of the Army. It is a casualty announcement that unfortunately is from the Department of the Army. It is received an announcement this morning of a casualty from the 401st Military Police Company. The gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. Speaker, rather than focusing on the fiery rhetoric that boosts cable ratings, I would rather we focus on the words of the late Pope, John Paul II, who said, Undocumented migrants are the most vulnerable of foreigners. With those words as our guide, I hope we can work together to create an immigration system that is reflective of their enormous contribution and the greatness of this Nation.

Private Hudson was traveling in a convoy between Baghdad and Camp Taji on Friday performing a routine patrol delivering mail, Mr. Hudson, his father, said. He was the gunner in his military police team and was charged with security at the rear of the convoy when roadside bomb exploded. A large piece of shrapnel shot through his body armor and struck him in the chest.

Private Hudson was born May 17, 1984, in Dallas. He played baseball, soccer, and basketball growing up; but his main high school sport was golf.

Mr. Speaker, I received a phone call from a Highland Village policeman, Chuck Barr, who was a next-door neighbor of Private Hudson. Chuck being a policeman, you might imagine, was some time to later in the day, I called Chuck Barr, the policeman in Highland Village, shows him and Mr. Barr’s son sitting in their home in Highland Village.

Mr. Speaker, I cannot even imagine the pain that Mark Hudson and Angela Hudson, Aaron’s parents, are going through this evening and this week. I called Mark Hudson, Aaron’s father, yesterday, and he knew his being there was important. He was Robertson who got young Aaron on the medivac helicopter, and probably it was Mr. Robertson who heard Aaron’s last words.

Mr. Hudson said that the letters he got back from his son were always upbeat. He never complained about things like the food. He never complained about his life in Iraq. He loved the camaraderie and the structure of being around his fellow soldiers. Mr. Hudson said in the newspaper article, Let’s face it, he would rather have been home, but he knew why he was there and he knew his being there was important.

Well, Mark Hudson, Angela Hudson, I want you to know that just as we heard the speaking of her stepson that was going to be deployed, on behalf of a grateful Nation, we say, “Thank you.” As Aaron comes home this week, I again would say, “Thank you.”

(From the Dallas Morning News, April 18, 2005)

HIGHLAND VILLAGE SOLDIER KILLED

(By Christy A. Robinson)

An Army private from Highland Village died in Iraq on Saturday, a day after he was struck by shrapnel from a roadside bomb.

Pvt. Aaron Hudson, 20, was a 2002 graduate of Marcus High School in Flower Mound. He had joined the Army almost a year ago and left for Iraq in January. He was serving with the 401st Military Police Company.

“Hi, I’m Mr. Hudson’s dad. I want you to know that just as we heard the speaking of our stepson that was going to be deployed, on behalf of a grateful Nation, we say, “Thank you.” As Aaron comes home this week, I again would say, “Thank you.”

(From the Dallas Morning News, April 18, 2005)

Pvt. Hudson conducted extensive research into which branch of the military he would join, his father said, before settling on being a military police officer in the Army.

“We knew in the back of our mind that this could happen,” Mr. Hudson said. “The people of Iraq, did not,” he said. “The criminal element in Iraq killed my son. He was there to help the Iraqi people.”

Pvt. Hudson was born May 17, 1984, in Dallas. He played select-level baseball, soccer, and basketball growing up, but his main high school sport was golf.

He always felt at ease among people of any age, especially among his grandfather’s golfing buddies. “He loved to play golf with those men. Those men loved him, too,” Mr. Hudson said.

Pvt. Hudson conducted extensive research into which branch of the military he would join, his father said, before settling on being a military police officer in the Army.

The thing that made him say, “I am not a military family,” Mr. Hudson said. “He sent us a letter the fourth week into basic...
Mr. Hudson said his son’s best friends were fellow Marines.

“‘He loved the camaraderie and the structure,’” Mr. Hudson said. “‘Let’s face it, he’d rather been home. But he knew why he was there, and he knew him being there was important.’”

Pvt. Hudson’s body was supposed to arrive at Dover Air Force Base in Delaware early the next morning. His body will be returned to North Texas by the end of the week, Mr. Hudson said.

Fundraising arrangements are pending. Pvt. Hudson’s battalion in Iraq will hold a memorial service for him Wednesday.

In addition to his father, Pvt. Hudson is survived by his mother, Annette Hudson of Highland Village; a sister, Lezlie Hudson of Lewisville; a grandmother Ed and Louise Huddleston of Highland Village; a sister, Lezlie Hudson of Lewisville; and great-grandparents Ed and Louise Huddleston of Lewisville.

OPPOSITION TO TRADE AGREEMENTS

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. Mr. Speaker, the definition of insanity is when someone does the same thing over and over and over again, and then expects a different outcome.

Every time a trade agreement comes in front of this Congress, the American Free Trade Agreement in 1993, the North American Free Trade Agreement, CAFTA, the Central American Free Trade Agreement. He says, if you pass CAFTA, we will have more exports; we will grow manufacturing in the United States. We will have a strengthened middle class; we will have strong environmental standards both in the United States and Central America; it will bring prosperity to the Central American countries.

What he does not tell you is that the six Central American countries that make up CAFTA, their combined economies figure at about $62 billion. Our economy generates $10.5 trillion in GDP, the six countries in Central America have a combined GDP, if you will, of $62 billion.

So CAFTA is not about robust markets for the exporting of American goods. They simply are not able to buy our products, $62 billion GDP in those six countries, that is about the combined purchasing power of the city of Orlando, Florida, or the city of Columbus, Ohio, or the entire State of Kansas. In other words, these six very small, very poor countries, have the economies of the State of Kansas or of Columbus or of Orlando.

So they are not buying American products. So they simply cannot buy agricultural produce from this country. They cannot buy the wines from California or the bees from Ohio or the steel production from West Virginia. They cannot buy computer goods. They simply cannot afford to buy these products from the United States.

So what are these trade agreements about? What was NAFTA about? What was CAFTA about? Mr. Speaker, what was CAFTA, the Central American Free Trade Agreement that the President wants us to pass, what is that about? It is about outsourcing jobs. It is about moving production from the United States where workers make $8 or $10 or $15 or $20 an hour producing things, to Guatemala, to Honduras, to Costa Rica, to Nicaragua, to El Salvador, to countries where the workers are making perhaps a day, or $3 or $4 a day in some cases.

It is about outsourcing jobs. It is about moving production to Central America. It is about loss of American jobs. It is about exploitation of workers in developing countries. It is about worse environmental regulations. It is about weaker food safety standards. But it is also about profits, the profits for large American companies.

That is why in this hall you are seeing the largest CEOs of the largest companies walk the halls asking Members of Congress to vote for CAFTA. You are seeing the CEOs of America’s largest companies contributing to elected officials, to Members of Congress. You are seeing them trying to buy their way into this institution, this corrupt institution, under the leadership of Republican leader Tom DeLay.

You are seeing in this institution an attempt to buy the Central American Free Trade Agreement. This agreement is about profits for American companies. It is about campaign contributions. But what CAFTA will not do is stop the bleeding of manufacturing jobs in the United States, and what it will not do is create a strong Central American consumer market for American goods.

Our economic success in this country is that workers in our country share in the wealth we create. If you work for General Motors, you help that company produce profits, you help that company do well. As a result, you, as a worker, share in the profits that you create.

That is what has made our economy vibrant. It is that people who work hard and play by the rules do well. But throughout the developing world, workers do not share the wealth they create. So what will make a trade agreement work is when the world’s poorest people can buy American products rather than just make them; then we will know that our trade policy finally will have succeeded.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. CHOCOLA) is recognized for 5 minutes.

Mr. CHOCOLA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?
WELCOME HOME GI BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, at the President’s second inaugural, last January, he said, “A few Americans have accepted the hardest duties in this cause, the dangerous and necessary work of fighting our enemies. We will always honor their names and their sacrifice.”

The other day I introduced a bill called the Welcome Home GI Bill to recognize the returning veterans of Iraq’s and Afghanistan’s theaters of war, to give them the type of compensation that they have deserved.

Now, a little history. We all know about the GI Bill. The fact is that the GI Bill was passed approximately 11 months before the end of World War II, signed by the President of the United States. Even before the war was concluded, the GIs from that war knew what the GI Bill was going to be.

And it helped them put themselves on the road to their civilian life, but also put America back on the road coming home from that war.

And the truth is that every Congress, every Congress at the end of hostilities has had a package of compensation for its veterans. Going back to the War of Independence, disabled veterans received a pension. There has not been a military engagement that the United States Congress, as the voice of the American people, has not designed a package for its returning veterans; and it is high time that the 109th Congress follow the great tradition of every Congress before and begin to think what we will do for the veterans returning from Iraq and Afghanistan.

Two weeks ago I met the Marine Corps 2nd Battalion 21st Regiment. I had seen them off 7 months earlier, and greeted them at Rosemont Horizon Arena in the Chicago suburbs, and saw those families. And one father said to me in a very poignant way, that this reception was a lot different from the reception he received about 35 years ago when he came home.

Now let’s see what we’ve done in this package, which we have put together now with 15 sponsors, and the Veterans of Foreign Wars, the Illinois Chapter has endorsed and supported, is three parts: education, health care and housing.

In the area of education, today, full benefits would be around $36,000 in 3 years under the Montgomery GI educational benefits, and you would have to pay $1,800 to get that $35,000.

The Welcome Home GI Bill is 75,000 over the GI bill. And you do not have to pay $1,800 to get that educational benefit because, in the view of the legislation, your service is your contribution. You do not have to pay $1,800 to receive an educational benefit, whether that is for college, 4 years of education, whether it is for job training, whether it is for postgraduate work, that benefit you earned by your service.

Second, if when you come back, your place of employment does not provide health care, you went off to war, when you came back your health care was canceled, you and your family will get 5 years of TRICARE health care, the gold standard and the gold-plated health care that you are provided on active duty.

Today, vets get, if obviously if they are hurt or are in poverty, they get the veterans health care system. We are going to provide them the TRICARE system that they get as if they were active duty, for them and their families.

Third, we provide today a mortgage insurance for a home. The hardest part of getting a home is actually the down payment. It would be a $5,000 contribution towards the down payment on their home. TRICARE health care for 5 years if your employment does not provide it or you lost it for you and your family, $5,000 for 4 years of education to pursue job training and education and you do not have to contribute $1,800 to get that. Your service provided that. And, lastly, $5,000 for a down payment on a home. That is in my view the minimum of what we can do for the returning veterans of Iraq and Afghanistan and provide them that sense of compensation. It is a welcome home for the GIs. Every Congress has done it in the past.

Lastly and more importantly, today we have a disparity between the benefits between National Guard and Reserve and regular enlistees. We eliminate that disparity between Reserve and active duty because you saw the same experience in Iraq and Afghanistan. So the National Guard get the same benefits as the regular enlistees have received. It eliminates that discrimination.

As I always say, we do not owe our veterans a favor, we just have to repay one. The Welcome Home GI Bill has now received the support of the Illinois chapter of the VFW. I look forward to the support of others. We will be submitting the bill next week.

The SPEAKER pro tempore (Mr. POE). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

(Mr. OSBORNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING MATTHEW DRAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this week Matthew Drake, a soldier who had been serving our Nation in Iraq, was awarded the Purple Heart for grave injuries he sustained on October 15, 2004, in Anwar Province, Iraq. May I please extend my heartfelt and to all my congratulations and deepest gratitude on behalf of the people of the United States.

Private First Class Drake, a resident of Toledo, Ohio, and graduate of Sylvania North High School, while driving a 6-ton truck became the only survivor of a bombing. Comatose, he had a fractured skull, severe head injuries, multiple back injuries, many broken bones, and damage to his right arm and shoulder. He underwent numerous surgeries while hospitalized in Germany at both military as well as German private hospitals and more after traveling to Walter Reed Army Hospital here in Washington where he remained in a coma for many weeks.

Matthew Drake survived by all accounts miraculously and will undergo rehabilitation for a very long time. He has been courageous in his journey. He said this week that as this Purple Heart he wanted to be able to stand from his wheelchair in order to have it pinned on him.

Throughout the months since Matt was wounded, his family has struggled to afford what is necessary to help him to travel to the hospitals on our coasts where people have been trying to help him. For his family to be near him and to help his very long rehabilitation, a fund was established at Sky Bank in Toledo, Ohio, on his behalf.

Last week, I attended a spaghetti dinner which was a fundraiser arranged by Matt’s family and friends to raise the money, at least part of it, required for this son of our Nation to continue his progress with the support of his family. And before I left, they gave me this T-shirt to remember Matt. And it says on it, “The Long Road Home, Matthew Drake, Army Special Forces Injured in Iraq. We were there for us. October 15, 2004.”

Matthew Drake was born in Toledo, Ohio, in 1983. He was raised in Sylvania and attended Maplewood Elementary School. He played soccer and was a Boy Scout and a member of Olivet Lutheran Church. While a student at Northview High School, Matthew was a wrestler and excelled in gymnastics. He trained in the martial arts, played guitar, and was an honor roll student.

After graduation, he enrolled at college at Bowling Green University and worked for the United Parcel Service, but 1 year later he felt duty-bound to serve our country. He left college and enrolled in the United States Army on October 13, 2002. Following training, he was assigned to Special Forces Bravo Company and sent to Iraq on September 7 just having turned 21. Not 6 weeks later he was promoted to specialist 2 and 2 days after that the attack that changed his life forever occurred.

Now facing the greatest challenge of his young life, to return from a near
mortal head and bodily injuries and trying to regain as much strength as he can. Matthew Drake’s dream of becoming a physical therapist has turned to dreams of gaining inches of recovery day by day. He had always planned to work in a profession where he could be of help to other people. Yet his commitment to his family, his feeling responsible to protect his younger siblings brought him to a most dangerous place. He felt he had a job to do, and he did it.

How many times have we heard that sentiment echoed by the families of the more than 11,000 service members injured in Iraq? Matthew Drake joins the 6,050 of those who were not able to return to duty and whose future in service to America and their God will take another form.

Matthew faces struggles of rehabilitation most of us cannot imagine. Even swallowing whole food is still not possible. Matthew’s story represents one family who’s struggle multiplied by more than 11,000 families whose loved ones have been injured and the over 1,550 who have had to lay their loved ones to rest.

Our government must assure that we properly care for and fully compensate these young people through their entire recuperation and lifetimes. Why should a family have to spaghettidinners in order to have the funds necessary to travel to be with one of these severely injured veterans who have come home?

Matthew is a quiet and shy young man who loves to laugh, especially enjoys children and animals, and who joined the Army to make the world safer. He represents the citizenship ideals of hundreds of thousands of service members whose value we should not forget.

The explosion that so injured Matt on October 15, 2004, killed all his colleagues. His injuries were grave. He was never expected to live. Matthew Drake survived by miracle and support of his family. His mother, Lisa, has never left his bedside since he has returned Stateside, and his father Tom has traveled time and again to be with him.

On April 18, 2005, with his mother and father by his side, along with his immediate family and friends, Matthew was awarded the Purple Heart. Matthew had made a promise to his parents that whatever he would try to stand dressed in his uniform to receive this special honor. He needed help to do that, but he did it.

Four Star General Douglas Brown, who presides over the Special Operations Units for all branches of the military, was given the honor of presenting the Purple Heart Award to Specialist Matthew T. Drake.

Our hearts swell with Matt and his family, not only because he waswarded such an prestigious and significant medal but because he lived to receive it and understands the meaning of words duty, honor, and country.

Congratulations to Matt. We love you.

[From the Toledo Blade, Oct. 19, 2004] Sylvania Soldier survives suicide attack; Northview H.S. grad is in coma, with skull fracture, injuries to arm, shoulder.

(By Elizabeth A. Shack Blade) A Sylvania soldier was seriously hurt in a car bombing in Iraq on Friday that killed four other people, and his family and friends are anxiously awaiting word on his recovery.

Pfc. Matthew T. Drake, who is in an Army Psychological Operations unit based at Fort Bragg, N.C., arrived at Ramstein Air Base in Germany last week on his way to Landstuhl Regional Medical Center.

On Friday, Private Drake was driving a truck near the town of Qaim near the Syrian border. Two other psychological operations soldiers, a Marine, and an Iraqi translator were killed in the suicide attack.

Private Drake was in a coma when he reached a military hospital and also has injuries to his head, right arm, and shoulder, including a fractured skull.

“It’s an ambiguous place that he survived,” his aunt, Linda Marie Domini, said. He has had several surgeries for his head injuries and will have more surgeries when he is in a more stable condition. He was eventually transferred to Walter Reed Army Medical Center.

Private Drake graduated from Sylvania Northview High School in 2001 and attended Bowling Green State University for a year. In October, 2002, he left to join the Army.

He wanted to protect his younger siblings, Heather Schuster, a sophomore at Northview, and Michael Schuster, a sixth grader at Arbor Hills Junior High.

“He really felt called to serve,” his aunt said. “He wanted to fight the terrorists over there rather than have them come over here.”

A member of the 9th PsyOp Battalion, Bravo Company, Private Drake left for Iraq on Sept. 7, two days after his 21st birthday. Assigned to a three-man psychological operations unit, he drove an armored six-ton truck with a speaker.

His aunt said he felt that he had a job to do and he was going to do it, and he promised his mother that he’d come back home. His father is Thomas Drake of Toledo.

“He’s coming home a Purple Heart veteran,” his aunt said, her voice breaking.

Private Drake wrestled his junior and senior years in high school and is a certified personal trainer, was thinking of becoming a physical therapist, Mrs. Domini said.

Friends and family described Private Drake, who belongs to Olivet Lutheran Church in Sylvania, as a kind, funny, and generous man.

Matt Serror, who has known Private Drake since they played soccer together in elementary school, said he was quiet and shy in high school but always helped people out. Whether he was shoveling snow for an elderly neighbor or dropping a dollar in a can for a cash register.

“It’s the little things you might not think about,” Mr. Serror said. “He’s one of those people that doesn’t come around every day.”

When the accident occurred, Rottweiler was recovering from surgery. Private Drake carried him outside when needed to go outdoors.

In an e-mail to his mother a week before the attack, he wrote that he had befriended a feral dog that ran around the encampment where he lived with two other men in a room the size of a two-car garage.

“We pray that he does come out of his coma that he’s still Matthew,” Mrs. Domini said.

Sky Bank branches are accepting donations to the Matthew T. Drake fund. His aunt said that if he doesn’t survive, the money will go to families of other wounded soldiers.

But she said their family is one of strong faith, and they believe he’s going to make it.

“We certainly ask for people who believe in prayer to pray for his recovery,” Mrs. Domini said.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. WOOLSEY. Mr. Speaker, later this week the House will vote on energy legislation that concerns every man, woman, and child in the United States. This energy bill presents a terrific opportunity to reduce our Nation’s continued dependence on petroleum by promoting clean and renewable energy sources. But instead of encouraging the use of renewable energy, this Neanderthal legislation promotes the interest of corporations through tax breaks that encourage air pollution, water contamination, and the general destruction of our environment.

This energy legislation will harm more than our environment. America’s continued reliance on fossil fuels is the single largest factor that contributes to our national insecurity. That is because we obtain most of our fossil fuels through the Middle East, a region where democracy is about as common as desert oases. By spending billions of dollars annually on foreign fuels, the United States supports autocratic regimes in countries like Saudi Arabia, Libya, and Venezuela.

The citizens of oil-rich countries run by despots rarely, if ever, receive even a dime from these oil sales. More often than not, these riches line the pockets of fat-cat leaders and their cronies, instead of paying for projects that would help improve the lives of all the people in the country.

This drastic gap in wealth between the upper and lower classes, in turn breeds hostility and despair among the local populace. This hostility, combined with the militant form of Islam that is encouraged by the fat-cat leaders, creates the conditions in which terrorism runs rampant.

If the United States were to become fully energy independent, we would essentially pull the plug on the supply of oil that feeds the Middle East much like oil through a pipeline. Therefore, the most effective measure we can take to address global terrorism
is to curb our dependence on foreign fuel. Unfortunately, this sham of an energy bill that we will vote on this week would do the very opposite, making Americans more beholden than ever to the whims and desires of big oil companies.

Sadly, 150,000 United States troops are currently embroiled in a war in Iraq that certainly is intended to ensure that the U.S. has access to Middle East oil.

President Bush and the Republican leaders in Congress claim they want democracy to take hold in Iraq. But if a democratic Iraq really is wanted, then we need to do two things right here at home.

First, we must craft a viable national energy policy that encourages the development and use of renewable sources of energy. Second, we must remove our troops from harm’s way by withdrawing United States military forces from Iraq, giving Iraqis and Iraqi oil back to the people of Iraq.

I have introduced legislation to address both of these: H.R. 727, the Renewable Energy and Energy Efficiency Act of 2005. It establishes a comprehensive energy strategy that will stimulate demand for more efficient energy processes and unlock the vast potential of renewable energy sources.

I have also introduced H. Con. Res. 35 with the support of 31 of my House colleagues. This legislation calls on President Bush to begin immediate withdrawal of U.S. troops from Iraq. If Iraq is as stable and secure as the Bush administration claims, then why does a third of our standing military remain there still fighting the Iraqi insurgency? Why do the men and women in our military continue to face gunfire and car bombs halfway around the world? For what cause have more than 1,500 American soldiers and tens of thousands of Iraqi civilians died, with another 12,000-plus American soldiers gravely wounded physically and mentally?

Mr. Speaker, our Nation’s energy and foreign policies are interconnected. You cannot address one without addressing the other. That is why the energy legislation that will come before the House this week is so terribly wrong for America.

In promoting this misguided energy bill, the Republicans in Congress ensure the continuation of the deep disparities of wealth in the Middle East. These misguided policies will encourage the very oil dependency we want to encourage future warfare. Instead of relying on foreign oil for our energy needs, let us address the source of the problem by employing our Nation’s innovative expertise by promoting the advancement of clean, renewable sources of energy. This will keep our air and water pure; but just as important, it will help purify our Nation’s foreign policy.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DeFAZIO) is recognized for 5 minutes.

(Mr. DeFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

(Ms. WATSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

(Mr. McDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. WATSON) is recognized for 5 minutes.

(Ms. WATSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. CORRINE BROWN) is recognized for 5 minutes.

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

EARTH WEEK

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 4, 2005, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes as the designee of the minority leader.

Mr. INSLEE. Mr. Speaker, I come to address the Chamber today on Earth Week. This is the 35th anniversary of Earth Day, something that is quite a significant event and something that has been very successful in American history.

I reflect back 35 years ago, and look how far we have come in America with our environmental policy to improve the conditions of our air and water, and we have had some real successes. I think it is appropriate once in a while to reflect on success in our Nation.

I live in the Seattle area and on an August day in Seattle, you look south where on a clear day you see Mount Rainier. It is quite a beautiful 14,600-foot peak. In August, it was invisible. You could not see it through the yellow haze, except perhaps be on the top 1,000 feet. As a result of some bipartisan efforts to reduce particulate matter and others in our air, we have been successful and I report you can see Mount Rainier very clearly as long as it is not raining, which once in a while it does in Seattle, of course.

We have had successes all over the country in improving our air quality as a result.

Just another little story: When I look out at Puget Sound just in front of my house, 35 years ago you may not have seen any bald eagles. They were an endangered species and considerable problems because of some pesticides in our food chain. Now, just yesterday before I flew out here, I saw a great bald eagle soaring. It is a real joy to watch him fishing, they are joined by the ospreys frequently, and we have had success with the bald eagle and now people are enjoying and our grandkids and great grandkids are going to enjoy. We have had success.

The third success: I want to point to our history. Our policies have adopted have been successful in bringing more efficiencies so we do not waste as much oil and have the pollution associated with oil.

In fact, if you will look at the graph here, this is a graph of the auto efficiency that we have had over the last several decades, and the top line here is for cars. The bottom line is for trucks, and the middle line is the average of both. You see back in 1975 our trucks were getting about an average of 12.5, 13 miles a gallon. Our cars, on average, were getting about 14.5 miles per gallon.

Back in the mid-1970s, we adopted some fairly ambitious goals to improve efficiency of our cars. What did we get? We got a tremendous boost in efficiency. If you look at these rising lines both for trucks and cars, very, very steep curves going up, so that in about 1984-1985 we got our cars up to an average of 24 miles a gallon, our trucks up to about 17 or 18 miles a gallon.

We had some major successes and we did so because the country embraced the spirit of Earth Day and embraced the concept that we need forward-looking, visionary environmental policy and energy policy in this country.

In sort of one of those ironies of life during Earth Week, we are going to have the energy bill up here before the House, which has major, major environmental impacts as well as security impacts and job and economic impacts.

I wanted to address tonight the impacts on our jobs, on our security and on our environment of the energy bill that the House will consider this week. I would like to start with some of the difficulties of that bill and some of its failures, and then I would like to move to the good news about the vision that we have to create a new energy future, a visionary energy future for this country.

In fact, what we call it is the new Apollo Energy Project, and many of us believe we need an entirely new vision of the home, plan for energy efficiency in this country that will do three things: first, break our addiction to Middle Eastern oil.
The security needs of this Nation to do that are obvious. The need to help spread democracy and the ability to do that will be much greater if we break this addiction to oil, which gives the oil princes and sultans the power in the Middle East. That security need for this is the first goal of the new Apollo Energy Project.

The second goal is to stop global warming. We have real problems with that. I will address that later. We need to have an energy policy that will stop this freight train right now that is building to significantly change our climate.

The third goal of the new Apollo Project is to grow jobs right here in the United States rather than allowing job loss to go overseas. Many of us feel that we should be building fuel-efficient vehicles here and not just in Japan. Those jobs, building fuel-efficient cars, should be here in America and not overseas by necessity. We think the solar cell technology, which was originally developed here, those jobs building those solar cells ought to be here

We feel that the people who are building the wind turbines, those jobs ought to be here, in Washington State and other manufacturing centers around the country, rather than in Denmark, that is now leading the world in that technology.

So we think we can bring those high-tech, visionary jobs home, and that is the very package of the new Apollo Energy Project.

I want to contrast that just for a moment with what the bill that will be voted on the floor consists of. Basically, the best way I can describe the bill that the majority party is bringing to this Chamber is the greatest waste of taxpaying money and give it to the oil and gas companies. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent.

That quote was by a fellow who knows the oil and gas industry quite well. That was a quote from President George Bush when he pointedly asked, What are we doing giving the oil and gas industry $7.5 billion of taxpayer money when they have got $55, $56, $57, maybe $58 a barrel of oil now? If that is not an incentive, what else would be needed?

As President Bush pointed out, what we really need is some more technological solutions to deal with a way to break our addiction to oil of any nature, foreign or domestic, so that we can move forward and no longer be a slave to big oil. I thought that was an interesting comment, one that I hope some of my colleagues can ask when we debate this issue.

I was talking to one of my constituents the other day, and I told him this; and he just looked at me and said with incredulity, he said, That cannot be true. Congress could never do such a bizarre thing as to hand over taxpayer money like that to an old technology. We must insist that that sort of pampering to get out of the crb of technology and get on its feet to become market-based. It has been around since the late 1800s. What are we doing with a $7.5 billion subsidy to an old industry?

Good question. I do not have an answer for it, but we will have a debate on this floor in this regard. So the bill that is now before us is sadly lacking. It is a perfect energy policy for the 1900s. In the early 1900s it might have made sense to help subsidize an industry just developing new technology, beginning to grow, a huge burst in the industrialization of America; but not now, not now. And we think we need a significantly different approach.

So we believe that we need an approach that will really use America's creative genius to develop the technologies to break our addiction to oil. And we have to make sure people understand. As long as we are dependent on oil, we will be subservient to the international oil marketeers even if we increase our domestic production, and the reason is geology.

We consume about 25 percent of the world's oil every year, but we only have reserves, including that which has not been pumped, of about 3 percent of the oil reserves in the world. The simple fact is we cannot plant dead dinosaurs underneath our continental shelf. We just cannot do it. And we can import no oil from there. We are dependent on foreign oil, and even if we increase our domestic production to some degree, if we doubled it, if we doubled our domestic production, we would be at capacity. We would be having 6 percent of the world's oil, but still be consuming 25 percent of the world's oil.

The fact is that we cannot drill our way to independence. We cannot drill our way to freedom, and we cannot drill our way to create jobs in this country.

We need to largely invent our way out of this pickle. We need to use American ingenuity, the kind of ingenuity that created the software system, the Internet, the aerospace industry, biotechnology, putting the man on the moon. That is the kind of technology we need. In fact, that is why we named this project the new Apollo Energy Project, because President Kennedy stood right there actually May 9, 1961, and he spoke to America and he said America needs to put a man on the moon and bring him back safely within the decade.

That was a dramatic thing to say at the time. I mean, we could hardly launch a softball into space; we had not even invented Tang yet. It was a dramatically bold, audacious challenge. He made it because he understood how good we are at invention in the United States of America, and we need that same kind of spirit now, a new Apollo Project that will call on the innovative spirit of Americans to solve these technological challenges.

This is not going to probably happen this afternoon when we debate this matter, but I can say optimistically that the planets are aligning to really come up with a new energy policy in this country. Let me suggest some of the reasons here.

One is that the people are starting to understand that we can be very successful. This is a note of optimism. We are optimistic, and the reason we are optimistic is because we have already understood how we can achieve success. What I would like to do is go back to this graph for a moment, we will take a look at this graph that showed what we did in the late 1970s, early 1980s, when we set ourselves on a course to improve the efficiency of our cars, we almost doubled the efficiency of our cars and some of our trucks by using new technology that we developed here domestically in America. With a bipartisan effort in Congress, we called for a higher fuel efficiency and we got it.

And we got all the way up to about 1985, when you see something happened. We had this just absolute ces-sation of any progress in efficiency in our cars. You see, we had this very rapid buildup for car efficiency that literally stopped and became a plateau from 1985 to 2005. On trucks, we saw it stop in 1985 and plateau and absolutely go down a little bit. So today the average in America is actually less today than it was in 1985.

So you have to ask yourself, what happened in 1985? Did we just get
dumb? I do not think so. Since 1985, we invented the Internet, we mapped the human genome, and we have built several new generations of jets at Boeing, in my neck of the woods in Washington State. We have had all these tremendous technological advancements, but in the backyards of our cars we actually gone down.

Why is that? We just forgot how successful we could be, because Congress and the White House, for reasons I never understand, have stopped calling for more fuel efficiency in what are called our corporate average fuel economy standards, and so they stopped progress. So we are now still dependent on foreign oil, have a problem with global warming, and are losing jobs rapidly to the Japanese in fuel-efficient vehicles as a result of that very shortsighted progress.

Now, that is bad news; but it is also good news because it shows what we are capable of if America sets its mind to it. It shows that we do it. We can set our new generation of cars to the market. We can manufacture cars that sort of suggest we need to go in a different direction for our energy world. I want to talk about why we need a visionary high-tech future for our energy world.

The CEO of British Petroleum, Sir John Browne, who has provided remarkable leadership on some new high-tech solutions to global warming said: “There is a discernible human influence on the climate and a link between the concentration of carbon dioxide and the increase in temperature.” That is the CEO of British Petroleum.

He is not alone. The CEO of Shell, Sir Philip Watts, on March 12, 2003 said: “We cannot wait to answer all questions on global warming beyond a reasonable doubt. There is compelling evidence that climate change is a threat.”

You then have James Baker, former Secretary of State for the first President Bush, who said: “When you have energy companies like Shell and British Petroleum saying there is a problem with excess carbon dioxide emissions, I think we ought to listen. I think we need to go forward with some sort of gradual resourceful search for alternative sources.” This is a gentleman who was intimately involved with the first Bush administration, who recognized global warming. And then there is the new Apollo Energy Project, which we are creating to go forward, and that is what we need to do today.

And one of the things the new Apollo Energy Project will do is to call for new improvements in the efficiency standards of our cars. But the project also demands that we need to help our manufacturers achieve that. So we dedicate a significant sum, several billion dollars, to our domestic manufacturers, people who manufacture cars within the United States, of whatever make. It is what we need to do in order for them to retool their factories to build these new fuel-efficient vehicles.

And that is an important part of our package, because it recognizes that we need to help our domestic industry find a way to finance the changes to continue improvements like that which we know we can obtain. We think that there is going to be enormous money made and jobs created in fuel efficient vehicles. Today, I must say, a car that gets a gallon of gasoline per mile is a great improvement, and these hybrid cars, in Seattle, Washington, now you can sell it for more than you bought it for because of the attractiveness of this fuel-efficiency standard. Safe, comfortable car. We can do this in this country. We need to set our minds to it, and that is one of the things we have suggested to do in the new Apollo Energy Project.

Coming back to this idea about an alignment of the planets, about why we can and cannot think what we are seeing in this country is a rather unprecedented combination of people who normally might have some different viewpoints on various policy matters who are coming together to understand why we need a visionary high-tech future for our energy world. I want to read some comments by these folks who sort of suggest we need to go in that direction.

Dealing with global warming, for instance, I think you might be surprised at some of the statements that have been made. The CEO of British Petroleum, Sir John Browne, who has provided remarkable leadership on some global warming: the extent to which it will occur, how it will affect the specific climates of regional areas. There is much uncertainty. But there is also much absolute clear facts, and I want to go over a couple of those. As folks may know, global warming is caused by carbon dioxide. Carbon dioxide works like a blanket, it traps heat, just like a greenhouse. Hence the term “greenhouse gases.”

Now, I actually had a scientist explain this to me a while ago. The way it works is, if you put a layer of carbon dioxide, it will allow ultraviolet radiation to come through it. When radiation comes from the sun, it is largely in ultraviolet ranges. And as you recall the spectrum of frequencies, this energy comes in at the ultraviolet frequencies. That can pass through glass, but it cannot pass through carbon dioxide as much as it would in the absence of the carbon dioxide. So you have ultraviolet rays coming in, they bounce back as infrared rays, and they are trapped.

That is a good thing, because if we did not have a CO2 layer, we would be on a barren planet. You could not exist here no matter how thick your down coat was. So we need that layer to some degree of heating gases. The problem is, if we have that CO2 layer increase in density.

So has it? Well, the facts are very, very clear. This is a chart that shows a red line that goes back to the year 1000. It comes up in 100-year increments, coming up to zero, which is today, showing our concentrations. On the left of the chart are the concentrations in parts per million that are measured. And these are absolutely unquestioned measurements. Scientists do an assessment of the parts per million of the molecules in the air, and it is a direct measurement. Nothing speculative about it. No hypothesis. Every scientist in the world will agree to this.

And we know what the records are because we have air bubbles trapped in glaciers and ice cores that we have taken out thousands of feet down in the Antarctic, in Greenland, and other places. So we know what the CO2 layer was back in the year 1000, which is pertinent to what we are doing today, as we know it today, because we had the air trapped a thousand years ago in these air bubbles. We knew it was 278, maybe 280 parts per million, and it was very stable for just under a thousand years. Then you start seeing it going up just over 100 years ago, which of course coincides with the Industrial Revolution and burning coal and oil and gas. And then it starts to come up at a fairly rapid rate over the last 100 years. And during the last 50 years, it has gone on in approaching a vertical level of increase.

So we are now up to, and I should have the number specifically, but in...
the 370 parts per million range. There is no doubt about this. We can see that we have gone up a factor of at least a third over preindustrial times, and the scary thing about this chart is you will notice the rate of incline. It is almost vertical. So at the end of the century we will be at the levels of carbon dioxide as we were in preindustrial times. That is disturbing when you know carbon dioxide traps heat. We know it has a close relationship to Earth’s temperature, as those lines mark Earth temperatures. And of course for about the last 200 years, they are observed temperatures, and you can see they are going up with some deviation up and down during the last 150 years. Now, before that, they are not observed temperatures. They are worked out through a formulation of using a variety of mechanisms. If you go back for geological times, the temperature is gradient. It matches fairly closely this CO2 curve.

So there is no doubt that we are causing a spectacular increase in the CO2 levels of the planet. The planet has never seen this before, ever, as far as we can ascertain through looking at these old air bubbles. We are doing something to the planet that has not happened before, and we are the ones responsible for it. The question is what is this Congress going to do about it.

Unfortunately, this Congress has done absolutely zero about this problem. We are looking at the fog of climate change and ambiguity and has refused to show any leadership whatsoever. And it is disturbing to me because, as you know, the consequences of this carbon dioxide are trapping energy in the Earth, and we are experiencing global warming already, and the vast majority, and I reiterate, the vast majority of the Earth’s meteorologists and geophysicists believe that this is now causing and will continue to cause an increase in the general tempera-
tures of the Earth.

Now, there is some variety as to how much that is predicted to be; but all of them, even the lower estimates of 2 to 3 degrees can cause very significant climatic effects. The differences between us and the last ice age were just under 10 degrees, even just Fahrenheit. So we have some very significant issues to deal with with global warming.

We have seen it already affecting our lives. Grand Teton Park this year because there is no snow in the Cascade Mountains, a condition which is predicted not to have glaciers in the next 50 to 70 years. When you want to take your grandkids there, you will say, This is where the glaciers used to be, Johnny. We are seeing melting tundra in Alaska. My son only had 3 days in Alaska. My son only had 3 days in Alaska. My son only had 3 days in Alaska. I point this out for the reason I want to show success today. This is not just the Jetson’s sort of futuristic world from the Jetsons, if anybody is as old as I am and remembers George Jetson. This is today’s technology.

An amendment that I believe will be in the bill tomorrow or Wednesday does allow and call for the Federal Government to start a program to equip Federal buildings with solar cell technology. The reason that this makes sense, solar cell technology is much more economical. The more you buy, the price of solar cells comes down dram-a-tically. Every time the number of solar cells we buy by a factor of 10, the prices come down 20 percent. It is still more expensive than buying electricity from a gas turbine, but it has its place.

We believe if we increase dram-a-tically the number of units, we will continue to see a decline of that cost curve so we will be able to enjoy what the Hathaways are enjoying tonight in Virginia. Now, we have to do some things to get that done.

I am a supporter of a bill called the Net Metering bill, which will require

It is a cap that we know we can meet. In fact, it was absolutely amazing to me, the Department of Energy last week issued a report that concluded that the cap that we set could be met by the United States without any signif-

icant economic harm. This is issued by a gentleman who is actually ap-

pointed by George Bush.

The Department of Energy has con-

cluded that we are fully capable, using existing technology, of dealing with this issue before we can put all the amount of carbon dioxide we put in the atmosphere, which will help spur some of these innovations.

What will we do to achieve it? Our energy and power bill takes a broad-

based approach not to pan-

acea to these challenges we have, but it does take the approach that we should be optimistic about it and we should recognize that we can have the same success in the new industries that will spring forth to deal with global warm-

ing to grow new jobs, as has happened in the software, biotech, and aero-

nautical industries.

For example, number one, the United States needs to embark on a research and development project akin to the original project that got a man to the moon, the original Apollo Project, be-

cause we found when the Federal Gov-

ernment invests in basic research and development, amazing things can hap-

pen. We would invest significant sums in these emergent technologies, tech-

nologies that sometimes seem obscure but have tremendous capacity.

There is a company in my district called Neah Power that is developing a fuel cell battery, which runs on ethanol or methanol. It will be four or five times as long-lived as a lithium bat-

tery with no emissions, completely safe, and will help to spur the develop-

ment of fuel cells that we hope to be-

come a significant part to the solution to this puzzle. They are out not now, but tend to grow over time. A small com-

pany, but here is a place we can help, and we hope that this company is going to help the American military pack less wieldy, safer, and more effective batteries to fuel our communication systems.

But the point is, we need to continue the research and development of the nature and scope that got us to the moon. Not every invention is going to work out and not every idea is going to come home, just like in the space pro-

gram, but it is a worthwhile invest-

ment.

Second, the Federal Government needs to use its procurement power to inspire these new industries. We need to have Uncle Sam order some of these new products to inspire these new prod-

ucts.

Third, we need to use the power of the Federal Government to encourage innovation. We need to use the word that is, financial. The Senate and I have introduced a bill here in the House which will set a cap on carbon dioxide emissions from the United States.
utilities to buy back your power from you so your meter runs backwards when you feed electricity back into the grid. Unfortunately, that will not be in the bill Wednesday. It is one of those long-term things that we have to do. This gives us an opportunity to go to Americans to help them make these choices. For some of these technologies that are still just a little bit above market base, we need to increase the amount of a tax break we give to Americans who drive fuel-efficient cars. We need to do the same thing for the manufacturers of fuel-efficient vehicles. For the retooling investments, we need to give an assist to our domestic auto industry when they do the retooling that they need to do for fuel-efficient cars.

We need to have better tax breaks when you buy an energy-efficient home, and a way to get a better mortgage lending rate for energy-efficient homes. We need to use all of these multiple tax levers to help Americans when they take that step up to better fuel- and energy-efficient appliances. Unfortunately, that is not in the bill that we will have Wednesday.

Instead of helping Americans move forward, new technologies, technologies that we have today, fuel-efficient cars we have today, the energy bill we will consider Wednesday will go backwards to give the subsidies to these old industries that started to reach fruition in the late 1800s. That is most unfortunate.

Fourth, we need to do some things on the regulatory side, one of which is the CO2 cap that I talked about. Another is the CAFE standard to improve the auto efficiency of our vehicles. Those are all measures that, together, could have a significant impact. We have already seen some successes, such as what we have seen in the Hathaways’ home.

Let me talk, if I can, about the job creation aspect of this. We have a real problem with manufacturing job loss in this country. Since 2001, we have lost 2.8 million family-wage manufacturing jobs. We have had a significant number of losses in a host of industries, but now we have an opportunity. This might be one of the greatest job creation opportunities that the country has right now.

We know, as the Creator makes little green apples, there are going to be created by the millions in the new industries that, by necessity, are going to be built to deal with the shortage of oil, to deal with global warming. And the shortage of oil, folks ought to read this book about the peak of oil production that is now on the market. It will make you very concerned about your future oil prices because it suggests that our oil production globally has plateaued and will go down in a decade or so, together with China having a demand and China. China will be equivalent to America’s demand for autos in the next decade and a half. We have to find some alternative mechanisms of energy, both in efficiency and new systems. Somebody is going to get jobs doing this, and we think it ought to be Americans. We do not think we should give these jobs away to our friends in Japan, who give the wind turbine jobs to Denmark. We think those jobs ought to be here.

And a very conservative estimate of our new Apollo Project, done by an economist in Waco, Texas, concluded that the Administration’s plan would create 3.3 million good-paying American jobs in the next 5 years. That is a significant step in the short term to help rebuild our manufacturing base. It would increase $1.4 trillion in gross domestic product, add $553 billion in personal income. This is an assessment done by a reputable economist from Texas.

By the way, Texas has done some good things in wind energy. Wind energy is having some spectacular success. Growing at 30 percent a year. In southeast Texas, in one county district, we have the largest wind plant farm in the United States. And we have five new wind farms under construction in the State of Washington. The other interesting thing about energy efficiency is, it creates more jobs than the fossil fuel-based industries. It creates 21.5 jobs per $1 million invested compared to 11.5 for natural gas generation.

This is a job-creating technological solution to an old, dinosaur-based fossil-fuel-based economy. This is our destiny as Americans to fulfill it. We are the inveterate tinkers who are the best people at inventing solutions technologically to problems of any people in human history. This is now our moment when the U.S. Congress ought to be seizing this opportunity. Just like Kennedy suggested we do in 1961, and bring those jobs and that bright light of creativity to our country.

The environment needs it. The glaciers and national parks demand it. Our children, who should not be living under slavery to Middle Eastern oil, demand it. We should not have to worry about Middle Eastern politics again when we break our addiction to Middle Eastern oil. We should not be wrapped around the axle of the Saudi Arabian royal house and whatever difficulties they have. We are slaves to whatever is going on in Saudi Arabia, and it is not a place that I want to do business with. Lastly, we ought to use our technological prowess to make sure we are the number one job creator in the world for these emerging industries. That is our destiny and that is why I will be joining some of my colleagues in introducing the new Apollo Energy Project in the next week or so. We know at some time it is going to get done, maybe not this week, but the stars are aligning and those who share my view, I welcome you to share your views with your Member of the U.S. Congress.

Mr. PAYNE. Mr. Speaker, I rise today to add my voice to those who would commemo-
strategic plan, and has not established values, goals, expectations, and performance measurements."

We must continue to bring attention to the documented environmental health disparities suffered by low-income and minority communities throughout the country, raising awareness so that together we might seek solutions. I call upon the Office of Environmental Justice Strategy to make this issue a priority as it was designed to do more than 10 years ago. This is a very real threat for my constituents. The EPA has announced that the entire State of New Jersey is officially designated as out of compliance with the agency’s health-based standard for ozone. The entire State is out of attainment for smog, and all counties that are monitored for soot levels are also out of attainment. Studies have shown that New Jersey’s air pollution levels cause 2,000 premature deaths every year. At this rate, pollution ranks as the 3rd most serious public health threat in my State. Only smoking and obesity kill more New Jerseys each year.

In addition, childhood asthma rates are on the rise—especially in our cities—and the threat of mercury pollution puts all of us at risk, but most especially infants, children, and pregnant women. The Bush Administration’s efforts to weaken protections established under the Clean Air and Clean Water Acts have compromised the long fought-for protections we have won since the Inaugural Earth Day back in 1970. We must stand firm in our objections to environmental policy that favors industry at the expense of public health. We must oppose irresponsible legislation, such as Clear Skies, that claim to protect the environment even while it is attempting to degrade it.

As we celebrate Earth Day, I hope that all of us can pledge to do more than just talk about these issues and to commit to act in support of those things which we speak about so passionately today. We must dedicate ourselves to full enforcement of the Clean Air and Clean Water Acts. We must rid our lakes, rivers, and streams of dangerous mercury pollution to ensure the safety of all Americans. We must oppose any more delays and restore full funding to the clean-up of toxic waste sites that threaten the health and safety of our Nation’s children. We must take seriously the threat of pollution to public health and act to alleviate the suffering of the urban minority and low-income populations, as well as the 5 million American children who now suffer from asthma.

These are big goals, but the stakes could not be higher. We must protect our precious natural resources and the health and safety of all Americans, especially urban, minority, and low-income populations who bear the brunt of our failure to do so.

Mr. INSLEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order today.

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

There was no objection.

SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 4, 2005, the gentleman from Minnesota (Mr. KLINE) is recognized for 60 minutes as the designee of the majority leader.

Mr. KLINE. Mr. Speaker, I am pleased to be here this evening to continue the conversation about Social Security. We need to know what it is, where it is, what we think the problems with it might be, and what some of the solutions might be. I know some of my colleagues have been in a discussion on this important program for the last hour or so, and they plan to join me shortly.

I would like to start by laying out for my colleagues the history of Social Security, what it was, what it has done for Americans, and where it is today.

Social Security, as most Americans know, has been a terrific institution that generations of Americans have relied on. It is a system that I think most of us agree has to be preserved and protected for our children and our grandchildren.

Mr. Speaker, my 84-year-old mother has been drawing Social Security, and she is at that point where it is her sole source of income. Congress relies on it very heavily as do millions of senior citizens, and we certainly want to make sure that all of those senior citizens get every dime that they are expecting to come their way. But we also need to make sure that our children, and my children are in their thirties, it seems every day they age another year, an indication of how old I am getting and how rapidly, my children are in their thirties and their children, my four wonderful grandchildren, are 6, 5, 3 and 2. We need to make sure that, as we look forward to the future of Social Security that it is there for our grandchildren as well.

I think most Americans, but not all, and most of my colleagues know that Social Security does much more than provide for a retirement, for assistance in retirement. It provides spousal benefits, survivor benefits, dependent benefits, and disability benefits. I believe that my colleagues on both sides of the aisle would like to make sure that those benefits, that security, that safety net continues into the future for our children and our grandchildren.

Social Security has traditionally functioned as a pay-as-you-go system. When President Franklin Delano Roosevelt brought us Social Security back in 1935, it was a contributory social insurance program. What does that mean? That means that workers put in and workers receive benefits. All workers pay into the system, but the workers receive benefits. It really was not designed as an investment program. It was not designed to do anything other than provide some insurance for you when you reached your retirement years. We have paid for it by taking taxes from the wage earner. When President Roosevelt started the program, we took 1 percent from the employee and 1 percent from the employer. Two percent of the first $3,000 earned was taken up in Social Security taxes to pay for the benefits of current and future retirees. Today’s workers support today’s retirees through a 12.4 percent tax, one dollar of it paid by the employer, half of it paid by the employee, on the first $90,000 they earn each year. What a difference, 2 percent to 12.4 percent. Two dollars in 100 to one dollar in eight. The program has changed.

It has changed in another fundamental way that I think that all of us, Mr. Speaker, need to be aware of. As late as 1950, and I will refer to the chart here beside me, there were 16 American workers paying taxes for every one beneficiary. Today, we are down to 3.3 Americans working and paying taxes for every beneficiary. Again, what a demographic change in America, a demographic change in the United States, for many reasons, life expectancies are longer, and that is a good thing, we are living longer, healthier lives, families are smaller, and that trend continues. So by 2035, 2040, when younger workers retire, we will have only two Americans working for every retiree. That is not going to be enough to pay for young workers to shoulder.

What does that mean in terms of money in the program? As I think most Americans know, we have been taking in those taxes, we have been paying out benefits and taking the excess money and putting it into a trust fund. I am going to get to that trust fund and talk about it in just a minute. But we need to also be aware, I think it is important for us to understand in the current system benefits are not calculated, because as we look to ways that we might need to strengthen Social Security, we need to understand the current system; and I would like to take just a minute to talk about how that works.

The Social Security Administration looks at every working American’s working life, all the years that they have worked. So if you, like me and many Americans, you started off working in a pick and shovel job for one store or maybe the newspaper or something when you were 16 or 15 and you work until your full retirement age, which by the time younger workers retire under the current system is not 65 anymore, it is 67, you could have been working and paying Social Security taxes for 50 years. The Social Security Administration takes those 50 years and they take your most productive, your highest paid 35 years, and they put it into a formula and, like everyday you do these calculations, you sit down with a hand calculator, there is a computer that has a formula that actually weights the system so that you get a
little bit higher percentage, if you will, if you are a lower-paid worker and a little bit less if you are higher paid; but they put it into the mill, they take those highest 35 years, they average it out, an index is put to it, and you come up with a number and that is your retirement benefit. That is your monthly check, which as our current retirees know, that is adjusted for inflation every year. That is how it works today. I met with the increased life expectancy and the smaller families and the lower number of workers per each retiree, we get into a cash flow problem, that is, at some point we are not going to be taking in as much money as we are paying out and that is where we get to the point where there are only two workers for each retiree.

Let us take a look at another chart here. There are, I suppose, many ways to do this. I have been holding some town hall meetings back in my home district, the Second District of Minnesota. One chart that I have often shown shows that our costs are exceeding our revenue. Another way of talking about it is that we have used up and that excess money is being marked and put in special Treasury bonds redeemable only by the Social Security Administration, the trust fund, to pay future benefits.

But the Social Security Administration, the report annual and that report as they look forward to the projections for upcoming years what the health of Social Security is. Their latest report, which came out about, oh, 6 weeks or so ago this month, said that in the year 2017, just 12 years from now, right here on this chart, that we are going to start paying out more money in benefits to retirees than we are taking in Social Security taxes. More money going out and that excess money is being marked and put in Treasury bonds redeemable only by the Social Security Administration, the trust fund, to pay future benefits.

What are we going to do about that? The Social Security Administration also pointed out in that report that the Social Security trust fund, those special-issuance Treasury bonds, will run out of those bonds in the year 2041. So at least on paper for a few years, we will be able to pay those benefits out of the Social Security trust fund by redeeming those special-issuance Treasury bonds. That means that in the year 2041, this House, in this Congress, is how we Americans going to redeem those bonds in order to meet our obligation to retirees? That is something we need to think about. The situation is very simple, we are not going to get better in the next 5 years or 10 years or 15 or 20. It does not get better. In fact, even when we have redeemed those bonds, as I mentioned earlier, the Social Security Administration says that by 2041, there are not any more bonds left to redeem, and so we are getting back to that position, we are back to this situation where we have two workers for each retiree.

Mr. Speaker, it seems to me that is a situation that we have to address. It is our responsibility to address it. The need to address it is now, because there is another little bump here that I think is important to us. In just 3 more years, the leading edge of the baby boomers are going to retire. If we can see the way the line changes that we have less money coming in and more money going out because those baby boomers, and I have to admit that I am one of them, baby boomers are going to start to get their retirement benefits. We start on a down slope, and by 2017 we cross that line. We need to decide what we are going to do about that for the near term and for the long term.

Those Treasury bonds, I have heard some people say, I was in a town hall meeting and some young man stood up, he was about the age of my children, actually perhaps a little younger, I think he was around 30, and he said, well, you know, I’m planning on not having any Social Security whatsoever, at all, in my retirement. That is your rate of return. It is a horrible rate of return. It is a horrible rate of return for a young man or a young woman who pays into Social Security all their life for the benefit of current retirees and when their time comes to retire, the best that they can hope is 75 cents back on the dollar that they were expecting. By the way, if they are going to get the 75 cents on the dollar, that assumes that they are going to live a full life. It just seems to me that we need to be able to do better for our children and for our grandchildren.

I see that my colleague, the gentleman from Arizona, has arrived. I know he has been working on this for many years and has a proposal of his own, and I want to yield to him in just a moment; but it is interesting to me that when I have a town hall meeting, and it does not matter if there are 50 people there or 100 people there, you can actually talk with the senior citizens who are very interested in this subject, they understand what it is, they receive Social Security checks; but when I ask the question, how many of you think that we need to do nothing to fix Social Security for our children and for our grandchildren, it is now almost every hand in the air. When I first started to ask the question weeks ago, not every hand went up. But I think more and more Americans understand as we continue to report on the Social Security Administration’s long-range estimates, that there is a problem and we need to do something to address it.

I yield to the gentleman from Arizona (Mr. KOLBE) who has done an awful lot of work on this subject.

Mr. KOLBE. I appreciate the gentleman from Minnesota for yielding, and I thank him for taking this hour of time here this evening to talk about this problem. It is one which is of such great importance, not just for the current generation, not just for those who have retired, but for the next generation, for those who will retire in the future.

I listened to him earlier talking about some of the elements of this problem. I think he has outlined them very well.

The problem with Social Security is relatively simple, or the problem that we have with the current system of Social Security is relatively easy to define. And that is that we have people living longer, we have fewer retirees, and we have fewer people coming into the workforce to pay for them.

That chart that the gentleman has up there, I think shows it so very well. At one time, in 1960, we had 16 people working for every one who is retired. Today it is a little over three people, and in a few years, a couple of decades, it will be two working people for everyone who is retired. That means two working people at each month have to pay Social Security taxes to cover the benefit that one single person is going to receive from Social Security. It is not sustainable over the long term, and it cannot go on in that fashion. So we need to do something about it. And I think the gentleman is right for coming to the floor tonight to suggest that this Congress needs to deal with it.

I am really surprised and somewhat frustrated and chagrined at some of my colleagues on the other side who simply say there is not a problem, we do not need to deal with this, we are not going to try to fix this thing, we do not have to fix this thing now, we can do it sometime in the future. Every year that we delay this becomes more costly.

As the gentleman noted, I started introducing a bill 7 years ago with Congressmen Stenholm, now with the gentleman from Florida (Mr. BOYD), and our plan is still the only bipartisan bill that has been introduced in Congress. And when we began with that legislation, we had certain costs to it, but each time, each Congress that we have reintroduced it, we, of course, have had to adjust, and we are closer now to the dates of when revenues will be less than the benefits being paid out, and that just makes it more costly to fix.

It is not very far away. In fact, in one sense a really critical date comes in just about 2 fiscal years, in the year 2008, and that is when the seniors begin to retire. At that point we are going to have to be doing more borrowing because Social Security is going to be covering a bit less of the
deficit that we have right now in the general operating part of the budget. But the critical year really is in 2017 where the lines cross, which the chart that he has in front of him there shows. At that point, the benefits being paid out exceed the income. And that point is coming up very soon in the Treasury bonds are being held, redeemable only by the Social Security Administration and Congress needs to fix it.

So they are expecting us to do that, and I think the fact that he has come to the floor to talk about this. I am going to listen for a few more minutes, and then I would like to participate again because I think I have some thoughts about the ways in which we go about fixing this because there is a fairly limited number of ways in which we can go about fixing it. I thank the gentleman for yielding to me.

Mr. KLINE. Mr. Speaker, reclaiming my time, I thank the gentleman very much for his hard work on this important subject and for joining in the discussion here this evening. I would like to talk about that trust fund again for a few more minutes because the gentleman is perfectly correct. The funds run out to West Virginia and took a look at the filing cabinets where the bonds, special issue Treasury bonds are being held, redeemable only by the Social Security Administration, unlike other government bonds that are issued and have to be done. And we have to redeem those things. In order to meet our commitment to retirees when we stop taking in as much money in Social Security taxes we are paying out in benefits, we are going to have to redeem those things.

And they are very much like an IOU. I do not mean to say that in a derogatory way, but in this particular case because of these special bonds and the way in which they are issued, all of us in America, all of my colleagues, we have to redeem those bonds out of the general fund. We borrowed it from ourselves; now we have to pay it back to ourselves. And sometimes in a town hall meeting, someone says, That is easy, just pay it back.

That is going to require a great deal of sacrifice on the part of Americans as we look to see where we are going to get the money to pay those back. And more than that, as I mentioned earlier this evening, even when we redeem those bonds and we pay it back so that retirees get their benefits, by 2041 the Social Security Administration says those bonds are going to be exhausted. And I suppose we could spend a lot of time on the floor of this Chamber, as we are wont to do, to debate whether that year is really 2040 or 2039 or 2042 or 2043. The point is, once we redeem those bonds, it is a very major challenge for all of us to decide how we are going to do that, those bonds are gone and our children and our grandchildren will be receiving only 75 cents on the dollar they expect.

So as the gentleman said earlier, it is a problem that cannot be pushed off. It is something that we have to address in this House, in this body, quickly.

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

Mr. KLINE. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman’s yielding again.

First of all, I think we have succeeded only in part, and that is that the American people, as the gentleman pointed out, do now understand there is a problem. He goes to a town hall; I go to a town hall. He talks to people, and people understand there is a problem. Polling data shows that 80 percent of Americans now understand that there is a significant problem with Social Security, and Congress needs to fix it.

But I think that people do understand there is a problem and that we need to fix it, because as the gentleman pointed out, if we do not do anything, those IOUs, even the borrowing from the IOUs run out at a certain point, and that is somewhere, we believe, about 2041 what the projections are today; and when that happens, if we have sat here all these years and done absolutely nothing, there would be an immediate problem in benefits. The gentleman probably will not be in Congress. I know I will not be in Congress at that point. He might be around for a while longer. But at that point there would be a political revolution in our land if we had not done anything at that point. It behooves us to fix it now while we have a chance to do it when it is not as costly, and I think that is what the gentleman has pointed out here tonight, and I appreciate his talking about it.

Mr. KLINE. Mr. Speaker, reclaiming my time, the gentleman mentioned that there are a number of proposals. I found it interesting, as this discussion has moved forward and I was trying to keep track of what those proposals involved, that there were so many of them that I simply could not keep them organized in my head and decide which ones had personal accounts, which ones did not, how big the accounts were, how they address solvency.

So there is a wonderful young woman on my staff, and I now the gentleman understands how that works, we are so busy with the people who work with us, but she put together a table, and I know people cannot see it from here, but I will show it to the gentleman, that has these plans going across the top and the different aspects of them. And right now the... and to 14, I think, on my chart here of different ideas that people have brought forward to address this issue.

And I think that is a healthy thing as we move into the debate. There will come a time when we will need to have a debate and have a bill or amendments on the floor and move to a solution, but I am firmly convinced that it is absolutely critical that we do that sooner rather than later.

In these plans, many of them, most of the ones that I have on this chart because it has been my colleagues from this side of the aisle who have come forward with the proposals for the most part, and the gentleman mentioned he has a bipartisan bill that they are looking at, but these proposals include personal accounts as part of the solution for the long-term solvency of Social Security. And there are differences in all of these, and I know the gentleman was earlier this evening in a roundtable discussion with some other authors of bills as the pros and cons of the different measures were discussed, but I think there are some things that are common that we all need to keep in mind.

All of the proposals on my chart here, which includes the outline that the President had, have recognized some have personal accounts and those about to retire, Americans born before 1950 that will not be affected by whatever our proposal is. And I think that is important for the peace of mind, I think, of my 84-year-old mother and her friends, they do not want to contemplate a change in the program, even though many of these programs virtually guarantee that everyone will get a benefit very much like the one they are getting, in some cases more of a benefit. But we need to reassure all of the seniors in our districts and our family that they will not be hurt; their Social Security check will not be affected by the issues that we are debating here in the House today.

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

Mr. KLINE. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I think the gentleman has made a very important point, one that we need to stress, because there are a lot of people all over
the place in various groups that are not interested in seeing this problem fixed. They have been trying to scare a lot of seniors, and it is wrong to do that because none of the plans, not one of the plans that are on the table suggest that there is going to be any change in the benefits for those who are retired today or for those who are near retirement.

So I think it is very important, as the gentleman said, that his 84-year-old mother understand, and all our other constituents understand, that we are really not talking about changing any benefits for them.

We are talking about the next generation. We are talking about their grandchildren, how could we fix it for their grandchildren so that their grandchildren will be able to say that there is something in the Social Security system that is going to be there for me.

A person who is retiring today has less than a 1 percent return on all the taxes they have paid over the years up to retirement in terms of what they are going to get out of it between now and their expected death. A person who is coming into the workforce today at the age of 22 or 23 may have a negative rate of return. In other words, they will lose money based on what they are going to pay in taxes versus what they are going to get in benefits. So it is a bleak system for young people, and we need to do something to strengthen it for them.

Mr. KLINE. Mr. Speaker, reclaiming my time, I very much appreciate the gentleman’s comment that there are some scare tactics out there, and that is unfortunate because when I look at all of these plans that are across here, and it is the whole range, the gentleman’s plan, Senator Graham’s plan, the gentleman from Florida’s (Mr. Shaw) plan, the President’s the AARP’s plan, the House plan, I do not think that there are any of these plans that want to do any harm to Social Security for the long term. They do not want to leave our children and our grandchildren holding the bag.

They would like to make sure that something is there, and it troubles me when evil motives are attributed to those who are working the best they can, the hardest they can, to find a solution to this horrific cash flow problem that we are facing and to the fact that we are going to be down to two workers for each retiree by the time my children and grandchildren retire.

We need to work to find a solution for that, and I, for one, am perfectly willing to listen to proposals from my colleagues on either side of the aisle, and I believe those proposals, certainly those on this page in front of me, come from people who sincerely want to make the system better.

Mr. KLINE. Mr. Speaker, if the gentleman would speak once more, we can take that issue off the table, then, that we are not really talking about changing the retirement benefits for those who are retired today or near retirement so we can clear that off the table. Then we need to turn to the issue of what is it we need to do to strengthen Social Security and how do we do it, how do we accomplish that?

I do not think the gentleman has his chart and I think there are really only three things that we can do with Social Security. One is we can raise taxes, we can cut the benefits, or we can increase the rate of return on what one has in the account in their investment.

So it is one of those three things that we can do, and that brings me to what I want to talk about, if I might, why personal accounts are important. I am not going to talk specifically about my legislation tonight, but I want to talk about what is a key cornerstone, I think, of most of the plans that are out there, and that is the personal account.

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Why are personal accounts important? Because personal accounts, frankly, they do not fix the solvency of Social Security; they do not fix it. You have to do other things to make sure that Social Security is solvent. But the personal account is that link to the next generation. It is the promise to the next generation of young people that there will be something in the Social Security plan that will make sure they do not have a negative rate of return. Because if you have a personal account that grows, that can actually grow, you are going to have a better retirement than you would have otherwise.

So the personal account is absolutely important. It is important both economically and politically. Economically, to ensure that the young people have a better rate of return, have a retirement that will yield them, really yield them something, bring them something. But politically it is important because it is necessary if we are going to shore up the support for Social Security among young people.

Those who are opposed to doing anything about this are very shortsighted, in that they are risking losing political support for a plan that we all know is very, very important. The longer it goes on and the rate of return is less and less for people, there will be less support for Social Security. We need to do something to fix that, and that is why personal accounts are so important. I appreciate the gentleman yielding to me.

Mr. KLINE. Mr. Speaker, I thank the gentleman for making that point. It does seem to me to be unacceptable that we are looking at a system that is going to provide a 1 percent rate of return or a negative rate of return. I think the gentleman, in an earlier discussion we were having on the floor, I think the point that in some cases it is not only not have a negative rate of return, and I think his example was the single parent. He used the example of the single mother who is 57 or 58 years old, we will use 57, my age, has a couple of children, they are through school, they have graduated high school; and this woman started work when she was 17, she has been paying into the Social Security system, has paid her Social Security taxes faithfully and for years, and tragically strikes and she dies, and her family gets nothing; a $255 death benefit I think it is today for the thousands of dollars that she has paid into the system. It seems to me we ought to be doing better than that, and I think that we can.

When we look at the proposals that are out there, there are a wide variety of them, as I mentioned earlier, and the gentleman explained some of the important reasons why a personal account needs to be an important part of this. He said that a personal account does not fix the solvency issue. I might argue that if the personal account is large enough, it will fix the solvency as these plans that are in so far as how much money is put into these accounts. But, in any case, it is part of addressing the solvency issue because of the higher rate of return, because of the higher growth, it puts more money into the system and helps us get at this problem of cash deficits.

It also takes money off the table, money that is in a personal account that cannot be used to fund other programs. I found in many town hall meetings people would say, well, you, Members of Congress, you spent the money on other things. If it is in a personal account, it cannot be used to fund other things; and as I mentioned in the example of the 57-year-old man or woman who dies early, in a personal account, they can leave that money, the money in the account is inheritable, they can leave it to their children or their grandchildren, so they do get something back for their 40 or more years of paying into the system.

Well, the debate is an important one. I am glad that it is engaged. I think that it is important that we recognize that we need to work together and try to address these problems. These are not uniquely Republican problems or Democrat problems; these are the facts of the program as it exists today, as it has worked for the last 60 years. The virtually inescapable change in demographics, again, that is not a Republican prediction or a Democrat prediction; those are the predictions of the actuaries of the Social Security Administration itself.

So we know that we are facing, as we are facing a problem with Social Security, I am pleased to see that Americans, apparently from coast to coast, and certainly in my district in Minnesota, have recognized that we have to do something.

I believe that as the debate goes forward we will see that there are some clear benefits to including personal accounts as part of, as part of the solution, because of the enormous potential
April 19, 2005

CONGRESSIONAL RECORD — HOUSE

H2143

DEGREE OF SKEPTICISM SURROUNDING INVESTIGATION OF OKLAHOMA CITY BOMBING

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Sacred Law and on January 4, 2005, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, on March 23, my office received an extraordinary report that a stockpile of explosives remained undiscovered by the FBI in the home of Terry Nichols, one of the two men convicted of the mass murder of 168 Americans in the bombing of the Oklahoma City Federal building. What made this tip even more provocative was a claim that the FBI had been contacted weeks earlier and that nothing had been done to recheck the location.

On March 31 the FBI finally raided the small-framed home of Terry Nichols; and after 10 years of insisting that the location had been thoroughly searched for evidence, the FBI found a yet-to-be-discovered stash of bomb-making materials, blasting caps and uncharged nitroglycerin. If anything is relevant to the Oklahoma City bombing case is an understatement.

If nothing else, this episode justifies a degree of skepticism about the claim that all the relevant issues concerning the Oklahoma City bombing have been uncovered and/or disclosed. After serving for 8 years as chairman of the Subcommittee on Space and Aeronautics of the House Committee on Science, this year I was pleased to be reassigned to the Committee on Oversight and Investigations of the Committee on International Relations. Already we have conducted several hearings into the scandal and malefeasance involving the United Nations Oil-For-Food program. But as chairman of the investigative arm of the Committee on International Relations, I was asked by several people whom I respect to direct my attention to the Oklahoma City bombing and to a pending investigation of possible connection to the Oklahoma City bombing.

That this mass murder of Americans was accomplished by two disgruntled veterans acting alone seems to be the conclusion reached by those in authority. However, there are some unsettling questions that deserve to be considered before joining those affirming the official explanation.

I promised to honestly look at the information available from official and unofficial sources to determine whether or not a hearing of my subcommittee would be justified in this matter. I have yet made this determination. However, my limited personal inquiry has brought howls of amazement from the friends who have warned me, oh, you will hurt yourself and be called a conspiracy nut even for considering a hearing. Well, admitted, when listening to these howls and people pulling out their hair, my reaction inside has been, as Shakespeare once said, “We think that thou dost protest too much.” So I am and have been proceeding on a personal inquiry into this matter. The day I walk away from trying to determine the truth of a matter of this magnitude because of possible personal attacks is the day that I will lose respect for myself and for the system.

The Oklahoma City bombing was the worst and most deadly terrorist attack on Americans in our history up until September 11. Those monsters who built the ammonium nitrate fuel oil bomb and detonated it next to the Alfred P. Murrah Federal Building in Oklahoma City slaughtered 168 of our fellow citizens. Nineteen of them were children. The bomb went off at 9:02 a.m. April 19, 1995, 10 years ago today.

Of course, in situations like this, it is unnerving to think that those we trust to defend us from mayhem and slaughter may not have done their jobs. I am sorry, but that is what we found after 9/11. Our intelligence community had let us down. The Oklahoma City bombing may or may not fall into that category. The fact that Terry Nichols’ and McVeigh’s central focus of law enforcement officials, was not thoroughly examined, is one of those items that justifies a certain level of skepticism about the other assurances by those in power who were investigating this monstrous crime.

Furthermore, I am not certain that this site, Terry Nichols’ home, would have been reexamined if it had not been known that I was considering a congressional hearing. So with a skeptical eye, we need to look into this matter, consider the questions being raised, and honestly assess the explanations we are given. Honest, hardworking, patriotic, responsible professionals led and were part of the investigation into the Oklahoma bombing. My assumption is that all of them were highly motivated and committed to truth and justice. My experience tells me, nevertheless, that even in such situations, mistakes can be made and group-think mentality can prevail.

No one could fault the great job that was done by law enforcement right away, of course. American law enforcement, with the FBI in the lead, mobilized an investigation and manhunt that continued in high gear even after initial quick results. Within days, Timothy McVeigh was identified and, incredibly, had already been taken into custody by the exemplary reaction of Oklahoma Highway Patrolman Charles Hanger.

Having sought McVeigh for driving without a license plate, Officer Hanger noticed McVeigh was carrying a pistol and arrested him on the spot. Good work, Officer Hanger.

So when the FBI, with amazing speed, traced remnants of the Ryder truck rental used to transport the crude, but powerful, bomb, Timothy McVeigh was already in jail. And shortly after this discovery, another man was connected to the bombing, Terry Nichols, McVeigh’s buddy who had helped in the purchase of the bomb materials and was involved in planning this monstrous crime.

Today at the 10th anniversary of this horrific crime, this terrible blood-letting, America needs to know that our government has followed every lead and that all of the significant facts are known and have been thoroughly evaluated.

There begins the first of a number of disturbing questions, questions that remain unanswered or are obscured by a fog of indecisive rabbles, official rhetoric, and a group-think mentality. Maybe...
So what is question number one? It is very basic. Is the investigation of the Oklahoma City bombing after 10 years an ongoing investigation, an active case or not? This question needs to be answered because it will give us all of the basis, the means to evaluate the situation as it stands.

If this is an ongoing investigation, the government must be holding open the possibility that this heinous crime was committed not just by McVeigh and Nichols but also by others unknown to be proven.

How could this case still be open and the possibility of others being involved if the authorities, with this in mind, permitted Timothy McVeigh to be executed, thus eliminating the primary witness against others who are thought to be involved?

No. This case is ongoing. If it is an active investigation and authorities permitted McVeigh to be executed, well, this is beyond bad policy. This would be the equivalent of executing a man who looks uncannily like John Doe 2.

No, in cases of this magnitude, the same type of procedure is not followed by law enforcement as is followed in a normal crime, where someone commits murder while robbing a liquor store or something. When you have the biggest terrorist attack and the most bloody terrorist attack in American history, no, you did not let a primary witness be executed before identifying someone else involved and that the person you are executing knows about it, even though he is not talking at the moment.

So let us hear the status of this case. That is our first question. If it is an ongoing investigation, why has significant evidence and why is significant evidence still being withheld from the American people?

There are a number of specifics to which I refer. There is the videotapes from the surveillance cameras located around the Murrah Building in the time leading up to the bombing and the moments immediately after the bombing.

It has been reported that there may be up to 23 such surveillance tapes. The Justice Department requested, and a judge agreed, to seal these tapes. Well, if this is not an ongoing investigation, then these surveillance tapes should be made public.

If there is nothing new and the videotapes reveal, as the authorities insist, that Timothy McVeigh by himself drove the bomb-laden Ryder truck to the front of the Federal building, then why not reassure us? If that is the case, why are these tapes sealed?

However, if the tapes reveal a second person in the truck with McVeigh, we know that Terry Nichols was not with him that day, then let us go look for that co-conspirator. Let us track him down and bring him to justice.

But keeping this from the American people, something as basic as whether or not the surveillance tapes of the Federal building indicated that there was a second person in the truck, and thus a third conspirator in this monstrous crime, then do the American people not have a right to know about this?

No. That is unacceptable. This is a free society. And if the public is to have faith in their government, we cannot keep secrets like this. We cannot keep it from the public as a whole. We cannot keep it from the families of the victims who died 10 years ago today.

Now is the time for the American people to see it. Ten years have passed, and there is no longer any excuse. Keeping the tapes sealed can do nothing but undercut public trust in the authorities who have overseen this investigation. So that is question number one: Is the investigation ongoing or not?

And, number two, why are the videotapes taken from the surveillance cameras around the Federal Building on the morning it was blown up not available to the public? Whatever the status of this investigation as determined by the FBI and law enforcement authorities, it has not been a closed case for a number of patriotic, hard-working investigative journalists.

Many of these journalists launched their own investigation in the face of career-destroying ridicule. They paid a price for trying to find out the facts in this case. But despite this, these experts say, there are so many unanswered questions and loose ends out there that have been brought up that we need to hear the answers about.

Jayna Davis was a broadcast journalist who worked as a reporter for a network-affiliate TV station in Oklahoma City at the time of the bombing. Over the years, she has presented information and raised issues that need to be addressed. Jayna Davis collected 22 affidavits from individuals who swear they identified McVeigh in the company of certain individuals, especially one who looks uncannily like John Doe 2.

To remind you, a few days before Tim McVeigh was positively identified, the FBI released a drawing of McVeigh, and by the way, there is John Doe 2. They also released a drawing of John Doe 2, who was described, well, both of them were described by an employee of the rental truck company and by others at the bomb scene.

John Doe 2 is a man who reasonably resembles a man of Middle Eastern extraction. Jayna Davis followed up on reports by those claiming to have seen McVeigh with someone who resembles John Doe 2. And she has followed up on those reports over the years. I have spoken to several of her witnesses. And I find at least some of her witnesses to be credible.

In one case, I spoke to a motel owner from near Oklahoma City. He claims that McVeigh stayed at his motel several times. He spoke to McVeigh and spent time with him. This is a man who was not just getting a glimpse of McVeigh, but actually was able to talk to him for a period of time. He claims an hour, an hour. Accompanying McVeigh on occasion, according to the motel owner, were some individuals the manager believes were of Middle Eastern extraction.

He also claims McVeigh stayed at his motel the night before the bombing. The Ryder truck, stinking of diesel and fertilizer, was parked on a lot near his motel, and he saw it pull out the next morning.

The book of Timothy McVeigh’s book reveals that McVeigh said that he had parked his truck at a lot near a motel outside of Oklahoma City. It seems to me that this motel owner has a lot to say and is a very credible witness.

Is he being seriously interviewed? Was that testimony taken by the FBI? Well, the motel owner says the FBI did not even interview the other co-employees of the hotel who would have disproved or proven what he had to say. And, by the way, the official version of McVeigh is that he did pull up into a vacant lot near a motel and that is where he spent the night.

Well, he did not say he spent the night in a motel; he just said that is where he parked the truck. Davis has a number of believable witnesses. These witnesses, and she just kept following this throughout the years and just kept on going and kept on going like an Energizer bunny, and she could not be stopped.

And she has amassed an important amount of information, an important list of witnesses who claim to have seen McVeigh with John Doe 2 at different times before the bombing and immediately after the bombing.

Clearly, at some point, the FBI began having second thoughts about the existence of John Doe 2. So here we have a reporter finding witnesses who have actually seen McVeigh, who is very specifically identified, who were actually seen in the company of certain individuals, especially one who looks uncannily like John Doe 2.

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that that drawing was based on his description, the description of John Doe 2. He actually changed his position and changed the description of the man that he claimed to have seen.

However, I talked to the owner of the rental company, the one we actually did the business with, McVeigh, and he was adamant. Even though the FBI is now saying that McVeigh went into that rental company alone, and is trying to convince the man who originally identified and had the drawing made of John Doe 2 on the floor, and said, oh, yes, there was a person, did you have a person with him, that employee actually gave in to the FBI's suggestion. But the man who owned that little Ryder rental shop insists that McVeigh was not alone as the FBI is now trying to say, and insists that there was a man accompanying McVeigh: and although he cannot describe the man, he is absolutely sure McVeigh was not alone there at that company.

And of course we ended up with a sketch of John Doe 2, and John Doe 2, who looked exactly like McVeigh. So then it became a question, all of a sudden, is there a John Doe 2? Well, how much did the FBI follow up on the extensive investigation of Jayna Davis who has collected the affidavits of 22 people, who saw John Doe 2, a person that looked like John Doe 2 with McVeigh?

Now, she even identified a suspect that looks like John Doe 2. And there are many reasons to suspect that he may have been with McVeigh. And there may be a John Doe 2. But there is a lot of conflicting things that have to be looked at here.

However, she actually got a picture of a Middle Eastern man who works there in Oklahoma City who had great trouble explaining where he was at the time of the explosion, and in fact was caught in many lies when trying to explain that. And many of the witnesses who Jayna Davis had shown the sketch to later said they were shown pictures of various people, she went and got a picture of this particular man who worked there in Oklahoma City, who was an immigrant from Iraq, I might add. □

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Many of her witnesses positively identified the man in the photo, not just the sketch that the FBI artist had given them, but the man in the photo as being the man that they saw with Timothy McVeigh. This is eye witness testimony. And, yes, eye witness testimony can be wrong. People can make a mistake. But this is important enough that I think we should have looked at this individual as a potential suspect and treated him as such. And I would like to think that was the case at any time.

Was the individual Jayna Davis pointed out at any time considered a suspect, and what type of investigation was done on the individual? It appears there was no indication that the investigation was not a thorough investigation into this man, but I certainly would like to hear from authorities as to how extensive that investigation was. Jayna contends it was difficult even to get the FBI to take possession of the sworn testimony that she had collected that linked this individual with Timothy McVeigh. That sworn testimony, the affidavits she collected, was signed by an FBI agent. But we must note here that Jayna Davis now tells us that that testimony, that sworn testimony, that Timothy McVeigh was in a relationship with a Middle Eastern man and that he was involved in the bombing and in the days leading up to the bombing by various people. That was never passed on to McVeigh's lawyers or Terry Nichols' lawyers during their trials, even though by law the government must give all pertinent information to the lawyers, defense lawyers in a trial like this.

So why was there such a hesitation? Was there such a complication of just trying to get a proper investigation into the actions of various people, so many witnesses as being John Doe 2? And why was he not being treated as a potential suspect? Why? Was he being treated as a suspect? What was the investigation like? Yeah, we need to know that. And we need to know why all of those people were wrong, if they were wrong.

So Jayna Davis, who has recently written a book called “The Third Territorist,” should not be dismissed out of hand. She is a woman who has been fingered by the director of the CIA, and he believes, as I do, that her evidence and witnesses deserve serious scrutiny, and her investigation should be looked at judiciously. Even though 10 years has passed, it is not too late to look at what she has found.

As far as Mr. Woolsey and myself, we are not saying everything that Jayna Davis is accurate. I, in fact, have some serious disagreements with some of the information in her book, on just an analysis of other individual, the ones who were pointing the finger at John Doe 2, but I had some serious disagreements with her. That does not negate the other things in the book, and especially the hard work she did to try to pin down those people who had actually seen McVeigh and this Iraqi immigrant who looked exactly like the first, not exactly, but looked like John Doe 2 and even had a tattoo on his arm which, I might add, was in the description of John Doe 2.

So here we have a man who looks like John Doe 2 and has a tattoo on his arm and mysteriously cannot back up his claim of where he was when that bomb went off. Was he John Doe 2? Was he involved with McVeigh? We need to know that that has been thoroughly investigated.

Other possible terrorist links can be found centered around a whole different group of the two that Jayna Davis took. This time we must look to see if the terrorist links can be found that can be traced back to the encampment of a neo-Nazi compound that was near the Oklahoma City-Arkansas border, about a half a day's drive from Oklahoma City.

A number of journalists, including J.D. Cash, Rita Cosby of Fox News, and others were focusing their energy and investigative talents into the activities surrounding the compound of neo-Nazis, white racists, gun nuts, Christian separatists, and irrational anti-government extremists, all of whom can be found at Elohim City. In fact, we know more than 250 crooks and criminals were based in Elohim City. What McVeigh and Nichols had to do with this nest of vipers has yet to be fully determined. So we know that neo-Nazis were there. We know Ku Klux Klan types, we know people whose hearts were filled with hate who could not conceal their feelings. We know that there, who organizing there. We are not so sure how much exactly Timothy McVeigh and Terry Nichols had to do with this gang.

Records show that he stayed in a motel very nearby this compound, and this is way out in the sticks. And so if he was in that hotel, he was there because of that compound of racists and Nazis. And also his car and he as the driver of the car were pulled over and received a traffic ticket very near the compound. Again, no one is just driving on a Sunday afternoon and just happens to drive by this racist Nazi compound in Oklahoma.

So there are some indications that McVeigh was on the scene there or nearby, and if he was nearby, that would mean to us that he was probably meeting with some of the people in the compound.

One suggestion, for example, is that McVeigh helped finance some of his activities by getting money from some of the bank robbers who operated in and out of Elohim City. In fact, there were 22 bank robberies that were committed at that time by people who, as I say, were in and out of Elohim City and McVeigh's and Terry Nichols' relatives, their sisters have suggested that some of that bank robbery money was used by McVeigh and Nichols to further their goals. That connection, however, again needs to be examined.

The link between McVeigh and Nichols and the monkeys, the racists and the Nazis and the bank robbers there at Elohim City? One thing is certain, this potential terrorist camp did not escape the attention of investigative. There was at least one paid informant there and probably more, other informants from other government agencies who probably did not know about each other.

Carol Howe, the informant for the Bureau of Alcohol, Tobacco and Firearms, reported extensively from Elohim City. What she described was the preparation for an armed attack on
the U.S. Government. She warned of assassinations and of bombings, and she told that the extremists there in Elohim City were capable of violence and capable of using weapons.

Federal authorities of course turned on Carol Howe later on after she made these reports. They actually were charges of conspiracy and bomb making against her, even though she had been, obviously, an informant.

Let us note that the jury system works. A jury found her not guilty. Those after her reports first-hand and found them to be very provocative and alarming as to what was going on there in Elohim City.

One of the most curious characters there was an Andreas Strassmeir. He was, as widely reported, in charge of security at the compound. He wore a gun and taught paramilitary tactics and operations. He was a young man who came from one of Germany’s prominent families.

So get this. Here is the guy who is in charge of security. He was training people in tactics. He was training people in guerilla warfare tactics and operations. And here he was, a young man whose father was the chief of staff of Chancellor Helmut Kohl. Helmut Kohl was the Chancellor of Germany. This is the equivalent of the son of Andy Card being charged with this type, of being a Ku Klux Klanner. In fact, Andy Card may have a little less prestige here than Andreas Strassmeir’s father had in Germany because they did have a very, very prominent family.

Andreas graduated from an elite military school, and then inexplicably he turned down a commission in the German Army; and a short time later he popped up in Elohim City. And there he was, as described by informant Howe and others as trying to provoke violent attacks on the United States Government. He referred to as a Zionist-controlled government.

Well, Timothy McVeigh had Strassmeir’s card in his wallet when he was arrested after the bombing. Strassmeir and McVeigh claimed to have met only once at a gun show long before the bombing.

Well, who the hell is Strassmeir? He is either a neo-Nazi, a virulent racist who pushed American extremists into violent acts, or tried to anyway, or he could be logical to assume that he might be an informant for some agency of some government.

Well, if he was an informant, he was ill trained and improperly handled because instead of being an informant, he eventually became, if the reports are correct, that we got word from Carol Howe and others, he eventually became a provocateur. The FBI has stated categorically to me that Strassmeir was not an FBI informant and never a source of information for the bureau.

Okay, he was not an informant and the FBI did not think he was an informant, why then was Strassmeir only briefly interviewed over the telephone by the FBI and then permitted to leave the country after it was clear that he had such connections to Elohim City? If nothing else, they knew that bank robberies were taking place by people who were in and out of Elohim City. If nothing more than the bank robberies, McVeigh, who was interrogated, placed a much more serious interrogation instead of being given just a few minutes on the telephone and then being permitted to leave.

If he was not an informant, would not his role there in Elohim City and what he was doing with bank robbers and racists and Klan members and then of course with the possible tie-in with McVeigh, would these things not just call out for a thorough investigation and a close look by the FBI? And if nothing else, should not his connection or possible connection with McVeigh, who was after all the murderer of 168 Americans, was not the possible connection worth a more thorough investigation? How could this investigation was done into Strassmeir?

Yes, there are serious questions that need to be answered, and there are loose ends that need to be explained and taken care of.

In the next few weeks, I will seek answers, and so far, the FBI has been more than cooperative. They are doing their best to be satisfied with the conclusions they reached after a long and hard effort on the part of FBI professionals. They may well have answers that are very satisfying to me and to the issues that I have raised, and there may be no need for a hearing if this level of cooperation is successful, and I certainly hope it is.

However, let us begin to answer some of these questions. We can start with the surveillance tapes and work our way through the problems that needs to be satisfied that the facts are known and that every lead has been followed and that all of us in the government are committed to keeping the American people safe from internal, as well as external, terrorism, and when crimes occur, like the one committed against our people in Oklahoma City 10 years ago today, the American people should be able to rest assured that their government will never give up, never close the case until it is certain that every lead has been followed and that those of us who work for government feel a special bond to the people of the United States to make sure they know all of the information and are satisfied with the investigations that we are involved so they can rest assured that we are doing our job just as all of the American people go about their business every day doing their job as professionally as they can.

The United States of America is a wondrous and wondrously wealthy and also a very vulnerable country. By the very nature of our free system and our free country, there are people who commit heinous crimes against us. We saw that in 9/11. 9/11, let us admit, it was a failure of our intelligence systems, including the FBI, that permitted 9/11 to happen. I still remember that some FBI agents were calling from the field, pleading with the FBI let them do a further investigation into these pilots, these foreign pilots that were being trained in the flight schools in different parts of the United States but these pilots who have might connection to foreign terrorist. We have heard these stories, and how heartbreaking it is that these FBI agents out in the field were turned down and they were diverted and prevented from doing their job by a mindset that existed.

Well, sometimes these mindsets happen and sometimes just leads are ignored because everybody believes that we should be going this way instead of that way, and thus, if anybody else has evidence of the other direction, it may not get the attention that it deserves.

We have to make sure that kind of mindset did not happen in Oklahoma City. We did not have to make sure of that, and by making sure that those people who seem to be credible witnesses, especially with tying Timothy McVeigh to a John Doe, we have to make sure this is thoroughly investigated. We have to make sure that if there was a connection between the bank robbers and Timothy McVeigh, we do not overlook it. The possible connection has been thoroughly investigated and that people who are involved in those bank robberies have been interrogated about any meeting of Timothy McVeigh or Terry Nichols.

We have got to understand and ask where Terry Nichols and Timothy McVeigh did get their money and where they got their training. If there is a foreign connection to the Oklahoma City bombing, there was a foreign connection, and I believe that these questions have not been answered, then a hearing by my subcommittee on the Committee on International Relations, the Subcommittee on Oversight and Investigation, would certainly be justified.

I will come back here in several weeks and report to the people of the United States what I have found and whether or not I have recommended to the gentleman from Illinois (Chairman Hyde), the Chairman of the Committee on Oversight and Investigation, would I come back here in several weeks and report to the people of the United States what I have found and whether or not I have recommended to the gentleman from Illinois (Chairman Hyde), the Chairman of the Committee on International Relations, who has been very cooperative and offered me great guidance on this, I will let the public know whether or not I have recommended that there will be a hearing or not a hearing.

So, with this said, let me just end with this note. The FBI is filled with wonderful people, and our intelligence people and the CIA are dedicated human beings who are professional. We know there were some problems with 9/11, but we also know that the vast majority of agents and government employees and these law enforcement agencies and the intelligence agencies
are very dedicated to protecting our country.
So nothing that I say or do should make anyone feel that this is implying anything but applauding the good work and applauding the patriotism of those people in these law enforcement agencies and intelligence agencies who protect us.

RECESS

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 12(a) of rule 1, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o’clock and 22 minutes p.m.), the House stood in recess subject to the call of the Chair.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PUTNAM) at 11 o’clock and 29 minutes p.m.

REPORT ON RESOLUTION PROVIDING CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109-129) on the resolution (H. Res. 219) providing for consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, which was referred to the Committee on Energy and Commerce.

SENATE BILL REFERRED

A bill of the Senate of the following title, which was thereupon signed by the Speaker:

S. 289. An act to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 787. An act to designate the United States courthouse located at 501 1st Street, in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o’clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 20, 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:

1677. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department’s final rule—Final flood elevation determinations—received February 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1678. A letter from the Director, Child Nutrition Division, Department of Agriculture, transmitting the Department’s final rule—Child and Adult Care Food Program: Increasing the Duration of Tiering Determinations for Day Care Homes (RIN: 0584-AD67) received February 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1679. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department’s final rule—Medical Devices: Immunology and Microbiology Devices; Classification of the Automated Fluorescence in situ Hybridization Enumeration Systems (Docket No. 2005N-0081) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1680. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department’s final rule—Affirmative and General Recognized as Safe: Menhaden Oil (Docket No. 1999P-5332) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1681. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department’s final rule—Secondary Direct Food Additives Permitted to Food for Human Consumption (Docket No. 2003F-0535) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1682. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department’s final rule—Secondary Direct Food Additives Permitted to Food for Human Consumption (Docket No. 2003F-0535) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1683. A letter from the Deputy Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department’s final rule—Revision of Export and Reexport Restraint Regulations to Implement Executive Order 13322: Rebids (Docket No. 04022128-5624-02) (RIN: 0691-AD14) received on March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1684. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department’s final rule—Licensing Policy for Entities Sanctioned under Specified Statutes; License Requirement for Certain Sanctioned Entities; and Imposition of License Requirement for Tula Instrument Design Bureau (Docket No. 04022236-5601-01) (RIN: 0691-AD20) received on March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1685. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department’s final rule—Editorial Corrections to Part 730 of the Export Administration Regulations (Docket No. 04022237-5022-01) (RIN: 0691-AD40) received on March 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1686. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department’s final rule—Denied Persons and Specially Designated Nationals (Docket No. 05022920-9229-01) (RIN: 0691-AD43) received on February 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1687. A letter from the Assistant General Counsel, Federal Election Commission, transmitting the Commission’s final rule—Political Party Committees Donating Funds to Certain Tax-Exempt Organizations and Political Organizations (Notice 2005-4) received March 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

1688. A letter from the Assistant General Counsel, Federal Election Commission, transmitting the Commission’s final rule—Filing Documents by Priority Mail, Express Mail, and Overnight Delivery Service (Notice 2004-14) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

1690. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes Modified In Accordance With Supplemental Type Certificate (STC) S80017BO [Docket No. FAA-2004-19891; Directorate Identifier 2004-NM-136-AD; Amendment 39-14006; AD 2005-05-17] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1691. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. FAA-2004-19568; Directorate Identifier - 2004-NM-112-AD; Amendment 39-14007; 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.

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. SENSENIBRENNER: Committee on the Judiciary. H.R. 801. A bill to make technical corrections to the United States Code (Rept. 109-148). Referred to the Committee of the Whole House on the State of the Union. Mr. SENSENIBRENNER, chairman of the Committee on Rules. House Resolution 219. Resolution providing for the consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable and reliable energy; (Rept. 109-49). Referred to the House Calendar and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MUSGRAVE (for herself and Mr. HINOE).

H.R. 1885. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for increased expenses for small business; to the Committee on Ways and Means.

By Mr. ANDREWS.

H.R. 1886. A bill to amend the Internet Tax Freedom Act to make permanent the mortgage on certain taxes relating to the Internet and to electronic commerce; to the Committee on the Judiciary.

By Mr. CUMMINGS.

H.R. 1887. A bill to require United States assistance for the repair, maintenance, or construction of the transportation infrastructure of Iraq to be provided in the form of loans subject to repayment in full to the United States Government; to the Committee on International Relations.

By Ms. DELAURO (for herself, Mr. WEXLER, Mr. MORAN of Virginia, Mr. VAN HOLLAND, Mr. PRICE of North Carolina, Mr. WULKOW, Mr. MCCAUL of Texas, Mr. HINES, Mr. PRICE of Connecticut, Ms. HARKIN, Mr. THOMSON, Mr. HART, Mr. UDALL of New Mexico, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. MCCOLLUM of Minnesota, Mr. OWENS, Mr. WEXLER, Mr. ENGEL, Mr. SCHWARTZ): H.R. 1887. A bill to provide for the ratification of the Convention on the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FARR (for himself, Mr. SHAYES, Mr. LEACH, Mr. WEXLER, Mr. VAN HOLLAND, Mrs. MALONEY, Ms. LEWIS of Georgia, Mr. UDALL of New Mexico, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. MCCOLLUM of Minnesota, Mr. OWENS, Mr. WEXLER, Mr. ENGEL, Mr. SCHWARTZ): H.R. 1888. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. PEENNEY (for himself, Mr. SMITH of Texas, Ms. BLACKBURN, Ms. HARDT, Mr. MEEK of Florida, Mr. BURTON of Indiana, Mr. BOYD, Ms. HARRIS, Mr. FOLEY, Mr. SMITH of New Jersey, Ms. ROS-LEHTINEN, Mr. PAYNE, Mr. SHAES, Mr. KELLER, Mr. CERNANSHAW, Mr. KIRBY, Mr. HOYER, and Ms. WASSERMAN SCHULTZ): H.R. 1889. A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names; to the Committee on International Relations.

By Mr. FRANK of Massachusetts (for himself, Mr. HOYER, Mr. WAXMAN, Mr. CROWLEY, Mr. OWENS, Mr. ABERCHROMIE, Mr. WEXLER, Mr. CLAY, Mr. McGovern, and Mr. PAUL): H.R. 1890. A bill to amend title II of the Social Security Act to restrict the application of windfall elimination rules to individuals whose combined monthly income from benefits under such title and other...
monthly periodic payments exceeds a minimum COLA-adjusted amount of $2,500 and to provide for a graduated implementation of such provision on amounts above such minimum amount; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 1691. A bill to designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the ‘‘John H. Bradley Department of Veterans Affairs Outpatient Clinic’’; to the Committee on Veterans Affairs.

By Ms. HOOLEY:

H.R. 1692. A bill to repeal the application of the Economic Growth and Tax Relief Reconciliation Act of 2001 to tuition programs which are qualified under section 529 of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. KENNEDY of Rhode Island, Mr. PAYNE, Ms. LEE, and Mr. ETHERIDGE):

H.R. 1693. A bill to increase the grants to eligible consortia to provide professional development to superintendents, principals, and to prospective superintendents and principals; to the Committee on Education and the Workforce.

By Mr. MALONE:

H.R. 1694. A bill to authorize the Secretary of Housing and Urban Development to make grants to nonprofit community organizations for the development of open space on municipal-owned or federal-owned vacant lots in central city areas; to the Committee on Financial Services.

By Mr. MICHAUD (for himself, Mr. ALLEN, Mr. BASS, Mr. BOEHLERT, Mr. MCHUGH, and Mr. SANDERS):

H.R. 1695. A bill to establish the Northeast Regional Development Commission, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on 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 Ms. MILLER of California (for himself, Ms. PELOSI, Mr. OWENS, Mr. MICHAUD, Mr. CROWLEY, Mr. CLAY, Mr. CARNahan, Mr. WU, Ms. KILPTHER, Ms. MCKINNEY, Mr. BISHOP of New York, Mr. WAXMAN, Mr. DELAuro, Mr. VAN HOLLen, Mr. RUPPERSBERGER, Mr. BROWN of Ohio, Ms. EDWARDS, Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Mr. MCDERMOTT, Ms. HOOLEY, Mr. KILDEE, Mr. SHERMAN, Ms. McCOllUM of Michigan, Mr. BACA, Mr. CHABOT, Mr. WINTER, Mr. GELALY, Mrs. TAUSCHER, Ms. WATERS, Mr. CASE, Mr. NADLER, Mr. COOPER, Ms. MILLER-McDONALD, Mr. BERNMAN, Mr. KIND, Mr. CAPUANO, Ms. SOLIS, Mr. VISCOMBRO, Mr. SIMMONS, Mr. DAVIS of Alabama, Mr. LEVIs, Mr. UPTON, Mr. SCHAKOWSKY, Ms. WOOLSEY, Mr. DAVIS of Illinois, Ms. SLAUGHTER, Mr. MCNULTY, Mr. MARKET, Mr. ACKERMAN, Ms. SCHWARTZ of Pennsylvania, Ms. KILPATRICK of Michigan, Mr. PAYNE, Mr. BERRY, Mr. TIERNEY, Mr. LAHSON of Connecticut, Mr. CARDOZA, Mr. LAN Touer of Massachusetts, Ms. RAHALI, Mr. ABERCROMBIE, Ms. LINDA T. SANCHEz of California, Mr. CARDIN, Mr. MATHESON, Mr. STUPAK, Mr. REEVES, Mr. STRICKLAND, Mr. KUCINICH, Mr. HOLDEN, Mr. WYNN, Ms. INSLEE, Mr. ALLEN, Ms. VELAZQUEZ, Ms. MATSU, Mr. CONYNGHAM, Mr. RYAN of Michigan, Mr. HAYES of Ohio, Mr. CHAMBER, Ms. HARMAN, Mr. DINGELL, Mrs. MALONEY, Mrs. MCCARTHY, Mrs. NAPOLITANO, Mr. SCOTT of Virginia, Mr. FORD, Mr. STARK, Mr. FATTAL, Mr. BOUCHER, Mr. MUHTA, Mr. HIGGINS, Ms. ZOE LOUGHER of California, Mr. ROSLIEG, Mr. BAL-ALLARD, Mr. ANDREWS, Mr. MCHUGH, Mr. BOEHLERT, Mrs. DAVIS of California, Mr. MENENDEZ, Mr. MOORE of Kansas, Mr. HINCHY, Mr. OBERSTAR, Mr. SCOTT of Georgia, Mr. DICKS, Mr. HONDA, Ms. ESHOO, Ms. WATSON, Mr. AL GREEN of Texas, Mrs. CHRISTENSEN, Mr. CAPPS, Mr. MOLLOHAN, Mr. HOLT, Mr. DOYLE, Mr. HINOJOSA, Mr. BERCILLA, Ms. LEE, Mr. UDBALL of Colorado, Mr. DEFAZIO, Mr. PELLEGRINO, and Mr. KIHL of New York):

H.R. 1696. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Education and the Workforce.

By Ms. NORTON:

H.R. 1697. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PASCRELL:

H.R. 1698. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid; to the Committee on Ways and Means.

H.R. 1699. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1700. A bill to suspend temporarily the duty on certain cappers preserved by vinegar or acetic acid; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1701. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved by vinegar or acetic acid in concentrations at 0.5% or greater; to the Committee on Ways and Means.

By Mr. PASCRELL:

H.R. 1702. A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5%; to the Committee on Ways and Means.

By Mr. PAYNE:

H.R. 1703. A bill to restore the second amendment rights of all Americans; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. DAVIS of Illinois, Mr. COBLE, Mrs. JONES of Ohio, Mr. CHABOT, Mr. CUMMINGS, Mr. CANNON, Ms. HARRIS, Mr. TOM DAVIS of Virginia, Mr. EHlers, Mr. GILCHRIST, Ms. LEE, Mr. OWENS, Mr. SHIMKUS, Ms. SOLIS, Mr. WYNN, Mr. BACHUS, Mr. SHAWS, Mr. PAYNE, Mr. RUPPERSBERGER, Mr. FORD, Mrs. JOHNSON of Connecticut, Mr. WESTMORELAND, Mr. BERNMAN, Mr. RAMOS of New York, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, and Ms. JACKSON-LERI of Texas):

H.R. 1704. A bill to reauthorize the grant program authorized by the Violence Against Women Act for re-entry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG:

H.R. 1705. A bill to establish a program to support deployment of idle reduction and energy conservation technologies for heavy-duty vehicles, and for other purposes; to the Committee on Energy and Commerce, 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. SHADEGG:

H.R. 1706. A bill to direct the Secretary of Energy to conduct a program in partnership with the private sector to accelerate efforts of domestic automobile manufacturers to manufacture commercially available compact hybrid vehicles in the United States; to the Committee on Science, 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. SHADEGG (for himself, Mr. UDALL of New Mexico, Mr. ROYCE, and Mr. TANNER):

H.R. 1707. A bill to assist in the conservation of rare felid and rare canid populations by supporting and providing financial resources for the conservation programs of nations within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Interior and Insular Affairs.

By Mr. SHADEGG (for himself, Mr. DAVIS of Florida, Mr. ENGLISH of Pennsylvania, Mr. THOMPSON of California, and Mr. TURNER):

H.R. 1708. A bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to any bond which is for the construction of water, sewer, or other public facilities; to the Committee on Ways and Means.

By Ms. SLAUGHTER (for herself, Mr. SIMMONS of Florida, and Mr. JOHNSON of Connecticut):

H.R. 1709. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women’s health care; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER:

H.R. 1710. A bill to amend title 18, United States Code, to protect individuals performing certain Federal and federally assisted functions, and for other purposes; to the Committee on the Judiciary.

By Mrs. WILSON of New Mexico:

H.R. 1711. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Res-
AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H. R. 1329: Mrs. Johnson of Connecticut and Mr. Ackerman, Mr. Stark, Mr. Price of North Carolina, Ms. Jones of Ohio, Mr. Ackerman, Mr. Peter, Mr. Engel, Mr. Berman, Mr. Davis of Illinois, Mr. Gigante of New Mexico, Ms. McMillan of Mississippi, Mr. Abercrombie, Mr. Oberstar, Ms. Sánchez of California, and Mr. Berman.

H. R. 1328: Mr. Brown of Florida, Ms. Millender-McDonald, Mr. Kucinich, and Mrs. McCarthy.

H. R. 1327: Ms. Bordallo, Mr. Evans, Mr. Smith of New Jersey, Mr. Hyde, Mr. Berman, Mr. Crowley, Mr. Green of Wisconsin, Mr. Engel, Mr. Burton of Indiana, Mr. Hastings of Florida, and Mrs. Jo Ann Davis of Virginia.

H. R. 1326: Mr. Garrett of New Jersey.

H. R. 1325: Mr. Udall of New Mexico and Mr. Holt.

H. R. 1324: Mr. Brady of Texas.

H. R. 1323: Mr. Scott of Georgia, Mr. Sengenberger, Ms. Corrine Brown of Florida, Mr. Cleaver, Mr. Hastings of Florida, Mr. Lewis of Georgia, Mr. Davis of Illinois, Mr. Ackerman, Mr. Stark, Mr. Price of North Carolina, Mr. Jackson of Illinois, Mr. Van Hollen, Mr. Gonzalez, Mr. Ehsho, Mrs. Maloney, and Mr. Miller of North Carolina, Ms. Moore of Wisconsin, Mr. Feeney, Ms. Berkley, Mr. Evans, and Mr. Frank of Massachusetts.

H. R. 1320: Mr. Davis of Tennessee.

H. R. 1319: Mr. Paul.

H. R. 1318: Mr. Bradley of New Hampshire and Mr. Young of Florida.

H. R. 1317: Mr. Bilirakis.

H. R. 1316: Mr. Lewis of Georgia.

H. R. 1315: Mr. Ryan of Ohio, Mr. Simmons, Ms. Lee, Ms. Millender-McDonald, Mr. Kucinich, and Mrs. McCarthy.

H. R. 1314: Mr. Wilson of New Mexico.

H. R. 1313: Mr. Goode.

H. R. 1312: Mr. Souder and Mr. Burton of Indiana.

H. R. 1311: Mrs. Myrick, Mr. Hayes, Mr. Jones of North Carolina, and Mr. Wilson of South Carolina.

H. R. 1310: Mr. Nadler and Mr. Brown of Ohio.

H. R. 1309: Mr. Butterfield and Mrs. Miller of Michigan.

H. R. 1308: Mr. Baird, Mr. Cummings, Mr. Larsen, Mr. Waxman, Mr. Brown of Ohio, Mr. Peterson of Minnesota, Ms. Jackson-Lee of Texas, and Ms. McCollum of Minnesota.

H. R. 1307: Mr. Hinchey, Mr. Stark, Mr. McDermott, Mr. Kucinich, Ms. Moore of Wisconsin, Mr. Rangel, Mr. Nadler, Ms. Jackson-Lee of Texas, Mr. Holt, Mrs. Tauscher, Mr. Eddie Bernice Johnson of Texas, Mr. Pallone, Ms. McCollum of Minnesota, and Mr. Grijalva.

H. R. 1306: Mr. Shays and Mr. Terry.

H. Con. Res. 16: Mr. McNulty and Mr. Platts.

H. Con. Res. 24: Mr. Menendez and Mr. Hoyer.

H. Con. Res. 85: Mr. McKeon and Mr. Alexander.

H. Con. Res. 90: Mr. Doggett and Mr. DeFazio.

H. Con. Res. 99: Ms. Norton, Mr. Stark, and Mr. Jenkins.

H. Con. Res. 107: Ms. Kilpatrick of Michigan, Mrs. Jones of Ohio, Mr. Loe, Mr. Ackerman, Mr. George Miller of California, and Mr. Brady of Pennsylvania.

H. Con. Res. 127: Ms. Bordallo, Mr. Evans, Mr. Smith of New Jersey, Mr. Hyde, Mr. Berman, Mr. Crowley, Mr. Green of Wisconsin, Mr. Engel, Mr. Burton of Indiana, Mr. Hastings of Florida, and Mrs. Jo Ann Davis of Virginia.

H. Res. 38: Mr. Baker, Mr. Waxman, and Mr. Garrett of New Jersey.

H. Res. 54: Mr. Baker, Mr. Engel, Mr. Davis of Illinois, Mr. Garrett of New Jersey, and Mr. Booze.

H. Res. 61: Ms. Schakowsky.

H. Res. 97: Mr. Kline, Mr. Lewis of Kentucky, Mr. Calvert, Mrs. Blackburn, and Mr. Everett.

H. Res. 138: Mr. Moore of Kansas, Ms. Woolsey, and Mr. Bishop of New York.

H. Res. 133: Mr. Hastings.

H. Res. 131: Mr. Jones of North Carolina.

H. Res. 142: Mr. Murphy.

H. Res. 146: Mr. Kuhl of New York and Mr. Westmoreland.

H. Res. 138: Mr. Miller of North Carolina and Mr. McCarthy.

H. Res. 185: Mr. Farr, Mr. Filner, Ms. Woolsey, Mr. Gutiérrez, Mr. Larson of Connecticut, Mr. Abercrombie, Mr. Oberstar, Ms. Sánchez of California, and Mr. Berman.

H. Res. 189: Mr. Kuhl of New York.

H. Res. 298: Mr. Dingell.

H. Res. 314: Mrs. Myrick and Mr. Souder.

OFFERED BY: Mr. Blumenauer

AMENDMENT No. 1: In title VII, subtitle D, after section 754, insert the following new section (and amend the table of contents accordingly):

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ‘‘program’’ means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ‘‘Conserve by Bicycling Program’’.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among inter- ested parties in at least 2 of the 5 fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) economy;

(D) maximize bicycle facility investments; (E) demonstrate methods that may be used in other regions of the United States; and (F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

OFFERED BY: Mr. Abercrombie

AMENDMENT No. 2: In title II, subtitle A, add at the end the following new section:

SEC. 209. SUGAR CANE ETHANOL PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ‘‘program’’ means the Sugar Cane Ethanol Pilot Program established by subsection (b).

(2) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Energy.

(b) ESTABLISHMENT.—There is established within the Department of Energy a program to be known as the ‘‘Sugar Cane Ethanol Pilot Program’’.

(c) PROJECT.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish a pilot project that—

(A) located in the State of Hawaii; and

(B) designed to study the creation of ethanol from cane sugar.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) be limited to the production of ethanol in Hawaii in a way similar to the existing program for the processing of corn for ethanol to show that the process can be applicable to cane sugar;

(B) include information on how the scale of projection can be replicated once the sugar cane industry has site located and construction in Hawaii in a way similar to the existing program for the processing of corn for ethanol; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $8,000,000, to remain available until expended.
The Senate met at 9:45 a.m. and was called to order by the Honorable Jim DeMint, a Senator from the State of South Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the skies display Your marvelous craftsmanship. When we consider Your heavens, the works of Your fingers, we become aware of our deficiencies. Lord, we are flawed people seeking salvation. We are lost people seeking direction. We are doubting people seeking faith. Show us the path to meaningful life. Reveal to us the steps of faith. Quicken our hearts and purify our minds. Broaden our concerns and strengthen our commitments. Bless our Senators today. Show them the duties left undone. Reveal to them tasks unattended. Lead each of them to a richer and more rewarding experience of faith. Quicken our hearts and purify our minds. Broaden our concerns and strengthen our commitments.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip is recognized.

SCHEDULE

Mr. McConnell, Mr. President, this morning we will resume consideration of the emergency supplemental appropriations bill. Under the consent agreement reached last night, the time until 11:45 this morning will be divided for debate in relation to the two pending AgJOBS amendments. At 11:45, we will proceed to two cloture votes on those amendments. Following those votes, the Senate will recess until 2:15 for the weekly policy luncheons. We will return then to the supplemental bill this afternoon, and as a reminder there will be two additional cloture votes today.

If cloture is not invoked on either of the AgJOBS amendments, then at 4:30 today we will have another cloture vote in relation to the Mikulski visa amendment. Upon the disposition of that amendment, the Senate will proceed to a cloture vote on the underlying emergency appropriations bill.

As the majority leader stated last night, it is hoped that the Senate will invoke cloture this afternoon on the underlying bill. This is the only way of assuring that this important bill will be completed this week. I remind all of our colleagues that if cloture is invoked on the bill, it will still be open for debate and amendments for up to 30 more hours.

It is clear we have a lot of work to do over the course of today and tomorrow. I yield the floor.
Frist (for Chablis/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 443, to amend the Immigration and Nationality Act to rephrase the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program, to provide stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the border adjustments to the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reid/Chafee) amendment No. 452, to purport certain nationals of Liberia to that of lawful permanent resident.

Chambliss modified amendment No. 418, to prohibit the termination of the existing joint-service multiyear procurement contract for C/KC-130J aircraft.

Bingaman amendment No. 483, to increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States.

Bingaman (for Grassley) amendment No. 417, to provide emergency funding to the Office of the United States Trade Representative.

Isakson amendment No. 429, to establish and rapidly implement regulations for State driver’s license and identification document security standards, to prevent terrorists from using the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility, and to provide expedient construction of the San Diego border fence.

Byrd amendment No. 463, to require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan, to address irregularities identified in such reports.

Warner amendment No. 496, relative to the aircraft carriers of the Navy.

Sessions amendment No. 456, to provide for accountability in the United Nations Headquarters International Multilateral Fund Project.

Boxer/Bingaman amendment No. 444, to appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems.

Lincoln amendment No. 481, to modify the accumulation of leave by members of the National Guard.

Reid (for Durbin) amendment No. 443, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

Reid (for Bayh) amendment No. 388, to appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UHMMVs).

Reid (for Biden) amendment No. 537, to provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the fiscal year 2005 individual income tax rate for individual taxpayers.

Reid (for Feingold) amendment No. 459, to extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expedite the duties of the Inspector General, and provide additional funds for the Office.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:45 a.m. shall be equally divided with the Senator from Georgia, Mr. Chambliss, in control of half of the time, and the Senator from Idaho, Mr. Craig, and the Senator from Massachusetts, Mr. Kennedy, in control of the other half of the time.

Who yields time?

Mr. CRAIG. Mr. President, could I understand the time allocation? The Senator from Georgia has 1 hour.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 58 minutes.

Mr. CRAIG. The Senator from Idaho has?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 29 minutes.

Mr. CRAIG. And the Senator from Massachusetts has?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has?

Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. I yield to the co-author of our amendment, the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arizona.

AMENDMENT NO. 432

KYL. Mr. President, first I compliment my colleague from Idaho for bringing to the Nation’s attention a proposal which deserves consideration, and that is how to both fulfill our need for workers in this country for difficult labor that some Americans have not been willing to perform and at the same time deal with the very difficult problem of the status of illegal immigrants who are currently in the country and who have been relied upon by employers in the field of agriculture to perform some of this work.

Both the Senator from Georgia and I intend to work with the Senator from Idaho in the future to try to develop the very best kind of guest worker program we can achieve to produce the objective of providing matching, willing employers and willing employees and at the same time doing it within the constraints of the rule of law. We look forward to that debate at a later time.

Earlier in the debate on the supplemental appropriations bill, which is the legislation before us, the Senate adopted overwhelmingly a sense-of-the-Senate proposal that we should not be trying to deal with these immigration problems in this legislation. This bill is too important. It requires that we provide funding for our war efforts in Iraq and Afghanistan. The reason it is called a supplemental appropriations bill is because it is supplemental to the regular process. It accounts for the fact that there are unforeseen expenditures in the conduct of this war that we have to fund, and we have to get the money to our troops as soon as we possibly can.

With that in mind, the full Senate voted we should be deferring the debate on these difficult and complicated issues with an amendment return to a later date when we can take that up in the full consideration it deserves and not delay important legislation such as the funding of the war effort. We are already into the second week on the supplemental appropriation for that purpose. We hoped to finish this bill last Thursday.

I provide that as background to simply note this: We have two votes this morning. The first is on an alternative proposal that has been set out by the Senator from Georgia, Mr. Chambliss, which would provide a way to match these willing employers and employees but to do so without granting amnesty to illegal immigrants. We will then vote on a second alternative of the Senator from Idaho and the Senator from Massachusetts.

The key point I want to make to my colleagues is if both of these propositions are defeated—and they both require 60 votes to pass under the agreement—then we can move on to complete the work on the supplemental appropriations bill and we might be able to finish that bill this week. In fact, hopefully, presumably, ideally, we will finish that bill this week. There is no reason why we cannot do our work and fund our troops. However, if the Craig-Kennedy legislation were to receive 60 votes, we are in for a tough time because that bill is then open for amendment, and we are already aware of numerous amendments that are going to be filed, all of which are going to delay consideration of the supplemental appropriations bill.

Some of my colleagues signed on to this legislation before the bill was actually printed or before they realized it contained amnesty. The point I would make to anybody who is in that position is whether they support the Craig-Kennedy version or the Chambliss-Kyl version of guest worker legislation, it is not the time to try to use that legislation. We voted already to have that debate but rather to get on to the supplemental appropriation bill. Therefore, anyone wishing to move on should vote literally against the first vote we have to have on Chambliss-Kyl and the second vote on Craig-Kennedy. If either one of them gets 60 votes, then we are in for a long time of debate on immigration, with an awful lot of amendments on that subject and delaying the time that we can get back to completing the supplemental appropriations bill.

Even though it argues against an affirmative vote on our proposition, for
those who are interested in moving on to the supplemental appropriation bill, frankly, the correct vote is a “no” vote on both of these amendments.

Let me explain to my colleagues a second reason to vote “no” on the second vote on the first vote. The first vote is Chambliss-Kyl. What we have attempted to do in our guest worker legislation is provide an expedited, streamlined, simplified way for employers to hire the people they need in agriculture, something they are not able to do today. We have a law today, but they do not use it because it is so cumbersome, expensive, and time consuming. The idea is to make it more streamlined so it will work.

In that respect, we think we have a much superior product and that is why I think the Farm Bureau supports our legislation, because they realize farmers will actually use it. I am very concerned that they would not use the Craig-Kennedy legislation because it has so many things built into it that I believe would make it difficult, at least as difficult to use as the current law.

I will cite one of the reasons now. Up to now, it has been the law in the United States that Legal Services Corporation does not represent illegal immigrants or illegal aliens. It represents Americans, people who are here either on legal permanent residency status, green card status, or citizens. There is little funding available to begin representing illegal immigrants and I am afraid the representation of American citizens who are residents would significantly suffer if the Legal Services Corporation is now going to begin representing these illegal immigrants as is called for under the Craig-Kennedy legislation. That represents a significant departure from current law and it certainly will make it more complicated for employers to use that law.

I use the other point, because the primary question is whether we want to embark on a road to granting amnesty to illegal immigrants.

Folks on the other side will say it is earned amnesty, but it is still amnesty by any name one wants to call it. It reminds me of that old saying, put lip-stick on a pig and it is still a pig. The fact of the matter is it is still amnesty and here is why specifically Craig-Kennedy is amnesty.

Under section 101 of S. 359, an illegal alien shall—it is not “may” but “shall”—be given status after working, and then the periods of time are laid out, but essentially in as little as 21/2 weeks, one could accomplish the accumulated 3-month labor period, but a maximum of five months, making a maximum of 2 weeks. They then have a legal status in the country. One year later, they get their green card.

A green card is legal permanent residency, and I understand the word permanent, and if one gets it, they earn it. If they come into this country, they have a status which enables them to live here for the rest of their life. Under existing law, it enables them to do something else. They can also apply for citizenship. They can apply to chain migrate their family into the country.

The point is that while that status should be available to anyone who desires it in the United States, we believe it should be available to people who abide by the law. We also do not discriminate against those who have violated the law and who seek to apply for this status. We simply have an advantage of an advantage over those who have done everything right, who have followed the law, applied for the legal permanent residency status from their country of origin, and have sought to get in line the same as everybody else. As the President says, if one wants to come here and stay, they need to get in line with everybody else. They should not be given an advantage. That is what amnesty is. When one is given an advantage over those who have conformed to the law, who have abided by the law, and one is given an advantage because they violated the law, that is frankly a concept I think most Americans would deem not only very unfair but getting on a very slippery slope because we do it wrong, who violate the law, have an advantage over those who are willing to do it right. That is not the American way and that is the key difference between the Craig-Kennedy legislation and the Chambliss-Kyl legislation.

We say one can work here and continue to work here. In fact, we have three different 3-year periods, one right after the other, in which one can work in the United States. But we say if they seek to become a legal permanent resident, as opposed to a legal temporary resident, that permanent residency should require them to apply for it the same as everybody else. They have to go home, make the application—and then they have their green card. Once they get their green card, it is true they can apply for citizenship, but at least they have to follow the rules. They have done it the same as everybody else and they have not gotten an advantage because they came here illegally and stayed here illegally.

The final point I want to make is that there is another provision of the Craig-Kennedy legislation which I do not understand, which was included by the Senator from California, Mrs. Feinstein, and others. It is a provision which actually attracts people who have previously violated the law. They snuck in, they came into the United States illegally, they illegally used documents to gain employment, they have been employed illegally in the United States, and the fact of all of those illegal activities is what permits them to come back into the United States. In other words, they have gone through things that they could establish that they were here illegally, then they get to come back into the country legally. I don’t know of any-thing that stands the law on its head more than that. Why would somebody try to abide by the law if they realized that, with counterfeit documents, they can simply show up at the border and say, Hey, I worked in the United States illegally and I want to come back in now and get this new status you are creating for me.

It is a magnet not only for counterfeit and fraud but for people to come back into the United States who are not here illegally, claiming that they have a right to do so on one basis and one basis only—because they violated our law. It seems to me to be totally upside-down to grant legal status to people, to invite them into our country, on the basis that they violated our law when there are not enough visas to grant to people who are trying to do it legally.

This is amnesty, and it is wrong. Elements and appropriations legislation is absolutely one perfectly legal way to do this, to get all of the employers matched up that we need. We have no cap on the number of people who can apply through our streamlined H-2A process. As many workers as we need, we can get. I think that is why the Farm Bureau supports this. They know whatever labor needs we have in this country, we can fulfill them through a legal process, and there will not be any magnet for illegal immigrants to come to this country anymore.

To conclude, there are two reasons to vote against the Craig-Kennedy legislation and one good reason to vote for the Chambliss-Kyl legislation. The reason to vote against both, frankly, is that unless both of these are defeated, we are going to be on this immigration issue for a long, long time. Who knows when we are going to conclude the supplemental appropriations legislation? We are definitely not going to finish it this week again. This will be the second full week we have been on it.

Second, I don’t think at the end of the day we are going to pass legislation through the House and have it signed by the President—that grants amnesty to illegal immigrants or invites illegal immigrants back into the United States because of their illegal status. For that reason, we suggest we have a better approach, an approach which can meet our labor needs but do so within the rule of law and without granting a reward to those who have violated our law.

Mr. CRAIG. Mr. President, I will yield to the Senator from Nevada for the purpose of the introduction of an amendment to the underlying bill. It will only take time from now. I will claim the floor for a few moments.

Mr. ENSIGN. I ask unanimous consent the pending business be set aside and Senate amendment No. 487 be called up.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENGSIK] proposes an amendment numbered 487.

Mr. ENGSIK. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for additional border patrol agents for the remainder of fiscal year 2005)

On page 191, after line 25, insert the following:

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, for hiring border patrol agents, $165,451,000: 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. 85 (108th Congress).

CONSTRUCTION

For an additional amount for “Construction”, $41,500,000, to remain available until expended: 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. 85 (108th Congress).

REDUCTION IN FUNDING

The amount appropriated by title II for “Contributions to International Peacekeeping activities” is hereby reduced by $146,861,000 and the total amount appropriated by title II is hereby reduced by $146,861,000.

Mr. ENGSIK. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

AMENDMENT NO. 432

Mr. CRAIG. Mr. President, the Senator from Arizona has come up with some fascinating and interesting explanations of why his is not and ours is amnesty. By that I simply mean there are a lot of people who believe that if people have broken the law and that you grant them any forgiveness whatsoever, that is amnesty. But now, according to Mr. CHAMBBLISS and Mr. KYL, we have a whole new definition of why theirs is not, even though they grant those who have broken the law a blue card to continue to stay and work. They say there is a difference. You know, there really is not a difference in this respect. If I am not amnestied by the Chambliss-Kyl amendment, there is no stretch of the imagination that would suggest otherwise about the Craig-Kennedy bill. I do not believe our bill has amnesty, because I think when you ask someone who has broken the law to pay back to society and to limit their rights, then recognizing that they have done so and allowing them to earn that legal status—and certainly that is what we do in the Craig-Kennedy bill. We demand, if you will, 360 days over 3 to 6 years in the field, working hard, so you gain the right to apply for a green card. I do not call that amnesty; I call that hard-earned, labor-paid-for, to get the ability to stay and work. You can have your own thoughts about amnesty, but nowadays I am finding out anyone can have his or her own definition of amnesty. Amnesty is in the eye of the beholder. The epithet, like calling someone a communist.

In other ways, there is a very real difference between these two approaches. Let me outline it. We have 200-some foreign groups, part of a coalition of 509 groups, supporting our bill. It is very bipartisan. It is a significant reform of the H–2A program. It is not just crafted in the last minutes as a stopgap measure to block and divide. It is not so narrowly crafted that it delivers almost no real benefit. Most important, we say something that is fundamental to Americans who are concerned that our border to the south is now out of control and people are pouring over. It is in that vein. We say you had to be here last year, not just here on April 1 of this year, like the other amendment.

So regarding that problem we are all hearing about on our borders to the south, where people are pouring over, if they made it by April 1, the Kyl-Chambliss bill says: You get a blue card. You can stay 3 years, 6 years, 9 years, and in 9 years, if you are capable of developing your job into a supervisory position, you can stay permanently.

That is not a formula I think I have well established, no matter who tries to interpret what amnesty is, that it is in the mind of the beholder.

The reason I am on the floor today and the reason we have been allowed to come to the floor is because in this particular bill we became germane by an action of the House. I know the Senator from Arizona talks urgency. We have been 3 months producing an urgent supplemental. It has been 3 months since we asked you to respond. That is not the fault of the Senate. The House took 2 of those months. The House turned this appropriations bill into an immigration bill. We can take a few more hours to discuss AgJOBS.

Can’t we take a day and a half to solve what Americans believe is the No. 1 problem in our country, or a problem that is in the top three, and that is uncontrolled immigration and uncontrolled borders? What we are trying to do is to protect our economy and a segment of our workforce that works predominantly in agriculture is to gain control of the process, shape it, identify it, and stop the flood that is coming across our borders.

Let me show you some of the work we have done. I think it better explains to America the urgency of the problem. They hear the reports on the borders. They hear the reports about where people are coming. What is wrong with that picture?

Let me show you what is wrong with that picture. We could build a fence along the border. We could build it high and dig it deep, and we could man it with people every few feet, but if the laws that backed up the fence were not working, somebody would come through. Somebody would get through. They would dig under it. They would go around it. There are more than 7,000 miles of land borders in our country and more than 88,000 miles of tidal shoreline and water inlets. They would come. The reason they would come is that the law is not effective, nor is it defensible. They would come because our economy and our way of life are a powerful magnet and because our laws provide no reasonable way to
match those willing workers with jobs here that would go begging.

Here is another interesting graph. There was a time in our country when the laws did work. Starting in the 1950s we had a program for guest workers to come in and work. And they were identified and the worker matched to the work. They came and worked, and they went home. As a result of that, this green line represents the developing of the Bracero Program, which did just this. It is a result of that.

From a humanitarian point of view, it was not a good program. Many of these people were not well treated. But the side of it that worked was the side that identified the worker and the work, and here is the result. The red line represents apprehensions, those illegally crossing the border who were caught. Look at the drop, the dramatic drop in illegal activity going on in our country in the 1950s. Illegal immigration dropped more than 90 percent since 1954, over 1 million apprehensions. What did I say about last year? Over a million apprehensions. Millions were coming across the border illegally before we changed the law. We changed the law in 1960, 1965, 1983 and 1986, and we eliminated it. These crossings stayed low all through the 1960s and into the 1970s, until somebody did not like it anymore because of the way people were being treated, and they repealed it. Essentially, the United States law we have today, the H-2A program. Guest workers in the 1950s, you can see, remained relatively constant at a few hundred thousand, but those numbers dropped and flattened out because there were those in Congress who did not like the old law. They repealed it and up went the number of illegals again. Why? The system did not work. Over the years, the government and the people knew it. We watched it. We ignored it. That is why we are here today, because Americans are asking us not to ignore it any longer. It is almost the same scenario—my goodness, 40 years later, 50 years later.

Did we learn lessons? History has a way of repeating itself, and it appears it is repeating itself today—1954, apprehension of illegals, 1.2 million; last year, 1.2 million. But in the interim we had laws working for a period of time that clearly demonstrated that if this Congress is going to deal with the problem, it can. My legislation, the Craig-Kennedy legislation, clearly does so. We would dramatically changed the underlying H-2A program in a way that has produced support of over 500 organizations, 200 of them agricultural organizations, and 200 of them financial. And we do so in a bipartisan way and a broad-based way.

The Kyl-Chambliss bill is very narrow in who benefits from limited changes in the current program, and it does not reflect that bipartisan approach, nor does it reflect a national approach in large part on this issue. Their bill would benefit a few employers and a few labor contractors in some parts of the country. We have brought all stakeholders, all communities of interest to the table with our bill. That is why it is significant for all of us to understand that there are very real differences in these bills. Besides, as long as you just made it here by April 1 of the year, you get the Kyl-Chambliss bill. You get a blue card, and you can stay 3 years, 6 years, 9 years, if you get 300, and then you get a temporary card, and you have to work, and meet a higher standard of good behavior under the law than under the Kyl-Chambliss bill. You are working in the field, and after a period of time you get permanent legal residency. Between 2½ weeks and 3½ months, you get legal status. Then a year later you get legal permanent residency by doing the very same thing you are illegally doing today.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. CRAIG. There is a difference. If you come forth and you do the same thing again. Have been here and have worked 100 days and I want to get a temporary green card, we do a background check.

Mr. KYL. The green card is permanent, not temporary.

Mr. CRAIG. The temporary card is for people working 360 days over 3 to 6 years, and then you apply for permanency. It is at least 3 years, and maybe 6 years before you can even apply for permanent residency. Then that processing and adjudication takes about 2 to 3 additional years. There are backlogs. It is not immediately permanent. It is at least 5 years, and maybe 9 years before you have permanent residency. Then it takes another 5 years before citizenship, if you qualify. Do you do a background check? And do you make those who have a blue card—those whom you are giving the right to stay here legally—go through a full background check in full compliance with immigration law today? Are they drug dealers, three-misdemeanor conductors? We do that. We do a thorough background check to make sure we have the right people working here and not have criminals slipping through our borders. Do you do the same?

Mr. KYL. The answer is yes. We have a much more effective way because we have biometric identifiers, a fingerprint check, or other kinds of biometric identifiers so the individual identifies himself both as being in legal status for employment and being the person he says he is. That, of course, requires documents to demonstrate legality, in the first instance, so we can absolutely confirm that only the people who are being hired are here legally. You can make the card whatever color you want to, but under today’s legal permanent residency is called green card status. Everybody knows you get a green card when you have legal permanent residency.
Under your legislation, it is, in fact, the case that with as little as 2½ weeks but no more than 3½ months a status of legality is granted. After 1 year an application can be made for legal permanent residency. The only question is how much time it takes to complete that process. That is where you get your 2 weeks. Then we may add more time on top of that. You can apply for it, 1 year. It may take several more months to gain the status. Once the application has been made, you are a legal permanent resident in this country.

Mr. Kyl from Arizona pointed out that we need to work at least 100 days to get the blue card. Our workers need to work at least 100 days and be registered to get the Homeland Security identifier program. They are working on those kinds of efforts now. We would require the same.

The real difference is, your legislation could work 1 hour and get a blue card. Ours have to work at least 100 days and have been here prior to January 1. I think we agree on that. I do not know where the Senator gets his reference to 2½ weeks. No one last year worked in agriculture one hour a day for 100 days. That was before AgJOBS was even introduced. That kind of employment arrangement would be irrational. If someone had to show up and claim they had worked 1 hour a day for 100 days, that would be a reason to investigate them for fraud.

Mr. KYL. Mr. President, let me rephrase my claim.

The key difference is how you gain the status of legal permanent resident. Under the Craig-Kennedy bill, you get that after working here doing the very same thing that you are doing illegally today. You are not doing anything different. You are just doing it now under a new status as opposed to the old status. Once you do that, you get legal permanent residency. That is the difference. Under the Chambliss-Kyl legislation, you never get legal permanent residency. You get legal permanent residency which entitles you to apply for citizenship under the United States Code—4, United States Code, section 1427(a).

The point is, the granting of the legal permanent status under the Craig-Kennedy legislation automatically entitles you to apply for citizenship. That is the amnesty. You can’t do that under the Chambliss-Kyl legislation. There is no path to citizenship for people who violate the law except to go back to the country of origin and do it just like everybody else—to get in line like everybody else.

The final point I want to make is this: I think it is a very dangerous proposition to argue that we can control our borders. It has largely been accomplished in California and Texas. It is not accomplished in Arizona because illegal immigrants came to where we don’t have the control. We spent the money in California, we spent the money in Texas, and sure enough they crossed through Arizona. Over half of the illegal immigrants are coming through one sector in the State of Arizona.

The statistic which the Senator from Idaho pointed out is exactly correct in that agreement. The only question is we are talking about here, matching willing workers and employers within the legal construct, and with combined efforts to control the border and enforce those laws we can end up with a legal regime.

But I think it is a very dangerous proposition for us to say we can’t, under any circumstances, control our borders. We can, and we must.

The ACTING PRESIDENT pro tempore. Who?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, this is going to be a very interesting debate. I hope all of our colleagues are watching this. I wish to respond to a couple of things my friend said relative to our legislation.

First of all, this is not a stop-gap measure. This is not something we conceived over the last several weeks. This is the result of trying to fix the errors in the Chambliss-Kyl amendment which the Senator from California and myself proposed a very similar piece of legislation to what the Chambliss-Kyl amendment is today to reform the H-2A program. We weren’t as expansive back then because we didn’t conceive of these H-2A issues. We had a very similar proposition relative to H-2A because H-2A has been a good program, if it were streamlined. And if it were not so cumbersome for employees to use, it would be used more often than it is today.

Second, I want to talk about this issue relative to the control of the borders. Senator KYL is exactly right. I think it is very dangerous for anybody to argue during this process or any other process that we cannot control the borders, and we must control the borders. If we don’t control the borders to our country during this process or conceive of some way to make sure that Homeland Security does so during this process, then we are going to accomplish nothing.

Our goal is—I know what the goal of Senator CRAIG and Senator KENNEDY is to provide our agricultural sector in this country with a force pool from which to choose, and that they must be legal. That we can agree on. But we can control the border, and under our legislation—it is absolutely not. It is impossible to say we can control the border and control it from allowing illegal immigrants to come across that border.

It can be done, it should be done, and it must be done as a part of this process. I want to go back to the AgJOBS bill and talk about what is truly the major significant difference; that is, the issue of amnesty.

Under the AgJOBS bill that Senator CRAIG and Senator KENNEDY have, first of all, their limits are temporary work visas if they have worked in agriculture a minimal amount of time. I will not go through what Senator KYL just said but, basically, if they have been here for 100 days and worked 1 hour each day, then they qualify for what is known as “temporary adjustment status” under the Craig-Kennedy bill. That makes them legal. We simply do not do that. We intentionally put the burden on the employer to make sure the employee is who he says he is.

First of all, I need the workers; second, that these workers will be coming here as law-abiding citizens; and, they have not violated the law—as you can do under Senator Craig’s and Senator Kyl’s legislation, not twice, but you can have three misdemeanors on your record and still get the legal adjustment status.

We have zero tolerance. We think folks who come here and say they want to work in the United States must be law-abiding citizens, if that is what they want to do. We say, unlike Craig-Kennedy, that the burden must be on the employer to, first of all, go out and say, I want to hire American workers to do these jobs. Can’t do that, it is the employer who comes in and says: I have tried to hire American workers to fill these jobs. I cannot find the American workers to do it. Therefore, under the H-2A reform provision, I need these workers for a temporary period of time—X number of days—to do this job. Then they will return to their native country.

In the case of the blue card, it is a little bit different. There are some agricultural industries in this country—Mr. Boehner is the Lorem Ipsum the nursery business—where employees are needed for a 12-month period every time, not just for a temporary 90-day
or 120-day period of time. In that particular instance, these employers—again, the burden is on the employer—make the estimation that they need these employees—this individual is here, is law abiding, and that they want to issue a blue card to that individual.

That individual, again, can work only for that employer. When he leaves the employ of that individual, the burden is on the employer to let the Department of Labor know he has left. If he goes to work for another employer, which he can do in the agricultural sector, the employer for whom he goes to work must again file the proper documentation with the Department of Labor as well as with the Department of Homeland Security so they can track that individual. That is critically important.

The major difference in that provision, where the Chambliss-Kyl is they grant the temporary adjustment status which says they are here illegally. After a 3½ month period of time, they can then work for a year and get a green card, which means they basically stay in the United States forever with that green card. If they want to apply for citizenship, they can apply for citizenship while they are in the United States.

Under Chambliss-Kyl, they must comply with current law in order to get a green card. In order to do that, you must go back to your native country. You must stand in line, as everyone else is required to do today, in order to make a application for a green card. They do not get any preferential treatment.

If they want to secure what they think is the most precious asset an American has, and that is American citizenship, that is under the Craig-Kennedy amendment, simply can stay in this country legally with a green card, and while they are here under that green card—even though they came illegally—they can make application for citizenship. We will keep those people here, will be granted in 5, 6, 7 years, but that is immaterial. They can do so outside of what is current law.

Under the Chambliss-Kyl amendment, you cannot do that. If you are going to apply for a green card, you must go back to your native country and stand in line with everyone else and come in under the cap provided for in current law, make application, go through the process, and maybe get your green card. If you want to apply for citizenship, again, you have to follow current law. You have to go back to your native country, you have to make the proper application, and go through all the appropriate steps before you can secure citizenship.

That major difference of rewarding those people here illegally in the Craig-Kennedy AgJOBS amendment versus not rewarding individuals who are here illegally but only granting them a temporary status under the Chambliss-Kyl amendment is the major difference in these two bills.

Why should we even grant anyone here illegally the right to stay in this country? The Department of Labor estimated 2 years ago we have between 8 million and 13 million people in this country illegally. We have no idea who they are. We are standing on the street corner from time to time looking for jobs. We know, in the agriculture sector, about 85 percent of the employees are here illegally. They all have false documentations. They are pretty much untraceable to almost any street corner, unfortunately, or across the border in Senator Kyl's State of Arizona and pay somebody somewhere between $300 and $1,000—Under Chambliss-Kyl, that is the current market rate—and you will get a fake Social Security card and other fake documentation that will allow you to stay here. It is illegal for an employer, before he hires somebody, whether it is the agricultural sector or not, to ask that person for further verification of the fact they are here legally in this country. That is a weird provision in our law, but it is a fact, so we don't know who these people are. The mere fact we have a 5-million gap between 8 million and 13 million makes this problem worse. It is serious from the standpoint these people are taxing our education system, our judicial system, and our health care system. We need to identify who these people are.

We are firing the first rifle shot. Again, on this Senator Craig, Senator Kennedy, and I agree. I applaud them, particularly Senator Craig, for continuing to push this ball forward. We need this debate in the Senate as well as in the House of Representatives. Once we identify those people who are involved in agriculture and are here illegally, we have to make a fundamental determination, as legislators, and that is are we going to try to round up all of the people here illegally? Are we going to try to hire the hundreds of thousands of additional border patrol agents and INS agents, round those people up, and send them back from where they came and expect them to stay there? Or are we going to be practical, and are we going to identify these people—we will not look at them and say: We will give you permanent status in this country, but will allow you to stay here legally for a temporary period of time if you are law abiding. As I say, we have zero tolerance. That new bill will allow for three misdemeanors and still allow them to stay here.

Second, we ask: Are you displacing American workers? We agree on that. Both of us say we should not displace American workers. But if they are not displacing American workers, if they are law abiding, and if their employer—one other critical difference in the two bills—if their employers make the attestation here he has complied with all the laws, he has sought to hire American workers, and he cannot do so, the employer will be granted the right to either have those workers come in under the streamlined H2-A process or the employer will be the one who secures the blue card for that employee that he needs on more of a full-time basis.

I submit there are significant differences in these two bills but the basic significant difference is we think the Federal Government has the obligation, No. 1, to control the border. We think you can control the border. We think, if you did not control the border, I don't care how sophisticated a piece of legislation, we pass in this Senate or the House of Representatives, or it might go to the President's desk, we will have accomplished nothing.

We do request and mandate the Department of Homeland Security give us that agriculture in 6 months as to how they will control the border. As Senator Kyl said, they have a plan in place in Texas and California that is working better than what we have in Arizona, where it simply is not working. It is working much better than what we have in my county of Colquitt County, GA, where it is not working. They are getting into our county somehow. We need a provision to control the border.

Second, the major difference is a question of whether you want to vote to grant somebody who is here illegally, who may have violated our law on three separate occasions with misdemeanors, a path way to citizenship or whether you want to give somebody who is here for the right reasons, and who has not violated the law but who is needed by an agricultural employer, give them the opportunity to work for that agricultural employer, to identify those people—we will not look at them and say: We will give you permanent status in this country, but will allow you to stay here legally for a temporary period of time and never, during the whole time he stays in the United States, be given anything other than a temporary status.

Mr. Kyl. Might I ask the Senator from Georgia to yield for a quick question?

Mr. Chambliss. Sure.

Mr. Kyl. I was told a colleague was watching this debate from his office across the Rotunda. The bill that was made, under our legislation, a supervisor could apply for citizenship or be granted citizenship or legal permanent residency under the Chambliss-Kyl legislation. I wonder if the Senator would clarify that is not the case.

Mr. Chambliss. That is absolutely not the case. There is no way, under the Chambliss-Kyl amendment, anyone, anybody who is here illegally and who gets a blue card by virtue of the employment of that individual requesting the blue card, ever becomes anything other than a temporary resident of this country.

Under our law—and we maintain current law—under current law, there is no one who is temporarily working in this country on a temporary basis can ever apply for a green card—and can never apply for citizenship.

Mr. Craig. Will the Senator yield?

Mr. Chambliss. I am happy to yield.

Mr. Craig. I ask you to respond on my time. I appreciate that.
I understand what you are saying, “greening” versus “bluing,” but if you give someone a blue card and he becomes a supervisor, he may not be a permanent resident but he is permanently in this country by your legislation.

We all identify with the green card today because it has been around a long time. When you get a permanent green card, you can become a permanent resident and not a citizen. I suggest, and you may disagree, if you become a temporary resident of 9 years being here with a blue card, it is permanent, is it not?

Mr. CHAMBLISS. I appreciate the question of the Senator from Idaho. That is exactly the opposite from what is the truth. The truth is, he is always a temporary employee, and if he has a supervisory position and if he is granted additional time after 9 years, his temporary status never changes.

Mr. CRAIG. But he is permanently here if he wants to be.

Mr. CHAMBLISS. That is not true because if his employer ever released him from his employment, he has to notify the Department of Homeland Security and the Department of Labor, and that individual must go back to where he came from. Or if he has a——

Mr. CRAIG. So I am right, but under certain conditions I am wrong. Thank you.

Mr. CHAMBLISS. You are wrong, but there are exceptions to everything.

Mr. CRAIG. I thought so.

Mr. CHAMBLISS. He is never a permanent citizen as he becomes under your bill after about 2½ weeks.

Mr. CRAIG. Mr. President, I have to come back on that. Not after 2½ weeks. He gets a temporary green card for 360 days or 5 years. Then he applies for permanency. That is the way the bill reads. That is an additional 2 years. Math works it adds up and that is 6 years. I am sorry, that is not 2 weeks. It does not work that way. That we disagree on.

Mr. CHAMBLISS. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. CHAMBLISS. Is it not true, under your bill, an individual can get the temporary adjustment status after working 100 hours?

Mr. CRAIG. As of 2004, not in 2005. January 1, he had to be here last year working, cannot come across the border through Arizona. March 29, before April 1 of this year.

Mr. CHAMBLISS. Is it true that 1 hour is defined in the Fair Labor Standards Act, or 1 day’s work is defined as 1 hour, and it is actually 100 days?

Mr. CRAIG. I understand it is kind of the semantics we played a few moments ago. Temporary is not permanent, even though they are permanently here temporarily. I understand those semantics, yes.

Under the Fair Labor Standards Act, 1 hour is a day. But I do require not 1 hour, I require 100 days. You require 1 hour.

Mr. CHAMBLISS. Is it not true this is a fundamental difference in our two amendments? Under your amendment, the employee or the illegal alien comes in and says: I worked here for those 100 hours last year.

Mr. CRAIG. And must demonstrate through tax returns.

Mr. CHAMBLISS. Where under our bill they come in and an employer says: I have this employee, and I want to make application for the H2-A or the blue card.

Mr. CHAMBLISS. That employee must demonstrate tax records and an employment record during that 100-hour period by an employee prior to January 1, 2005.

Mr. CHAMBLISS. Would the Senator not agree a fundamental difference is, under your bill, the employee is the one who makes that attestation. Whereas, under our bill, it is the employer—the American employer—says: I need you.

Under your bill, the employee says: I have been here for this period of time, and therefore I deserve to receive this adjustment.

Mr. CRAIG. In my situation, they must have worked and, of course, they must do that full background check we all go through.

It is a time-consuming thing. One of the things the American people want that we are both doing is to control the current illegal population, to identify and find out who they are, to make sure they are not bad people, if we are going to grant them the right to stay and work. That we both accomplish.

It is not just, oh, get a card because you got 100 hours or, oh, you get a card because you got 1 hour, in your circumstance. It is because you have submitted yourself to a full background check. That is 14 pages in the current code of this country as it relates to immigration. That is very significant for all of us.

Mr. CHAMBLISS. Mr. President, I yield the Senator from Alabama 10 minutes.

Mr. SESSIONS. I thank the Senator from Georgia. I appreciate the debate that has been going on. It is an important debate. It is something we need to be discussing.

I say, with real conviction, we can improve the immigration system in America. We can make it work better. We must do that.

This is a defense supplemental bill, early in this Senate calendar. We are not ready, in any way, shape or form, to be debating this comprehensive legislation today.

If the American people were to know what is being proposed, they would be very unhappy with us. I certainly hope we are not about to make this law.

I understand, at one point, there were those who opposed the Craig-Kennedy legislation, which is breathtaking, in a way. But I don’t think the American people and Members of this body fully understand the import of it. It is a big deal.

I say to my colleagues, you will be voting on this soon. I urge you to get your mind focused on what we are about to vote on and I urge you to say, I am not ready to vote on such comprehensive legislation—this is a Defense bill—and vote no. That is the first thing we ought to do.

Let me see if I can summarize, from reading this legislation carefully, what I think the AOB5 amendment says without any doubt.

People who are here illegally, for any number of reasons, who should not be here contrary to the law, and, therefore, are who also working illegally and violating American law—under this bill, if they have worked 100 hours in 100 days, meaning 1 hour per day, within 18 months—virtually no real work is required in the 18 months—they become, immediately, just like that, a lawful temporary resident. They immediately become able, legally, to stay here. If they have brought their families here unlawfully, their families also get to stay and cannot be deported.

Then, in the next 6 years, if they work 2,060 hours—this has been explained as somehow earning your citizenship. I want to remind us that these people are here voluntarily, they are working and they are being paid what they earn. They are simply doing what they wanted to do. This should not earn them a path to citizenship. They are not doing volunteer work in the community. They are earning a living and being paid for their work. Some say they should be earning more than their pay, that they are earning amnesty as well. But if they work 2,060 hours in 6 years—now, 2,060 hours is about 1 year’s work for an American worker; that is how much you work a year—if they do that, some say they are then entitled to legal permanent resident status. And it is a point, they can bring in their family if they are out of the country. They can come into the country with you and also become legal permanent residents—even if you never intended for your family to follow you when you decided to come to the U.S. illegally and work illegally.

Then, if you wait 5 years, as a legal permanent resident in the United States, and you work, and you are not convicted of a felony, or a convicted of three misdemeanors—three will block you, but two will not. You can be convicted of two misdemeanors. You can be investigated for drug smuggling, for murder, for child exploitation, all of these things. You can even be indicted for those charges. But the statute says, if you are not convicted, the Secretary shall make you a lawful temporary resident and shall make you a legal permanent resident. It is mandatory on the Secretary. They cannot do otherwise. It was checked and say: Well, the FBI is investigating this guy for drug smuggling or being a member of some gang or involved in
Mr. SESSIONS. I thank the Senator. By the way, the AgJOBS amendment also provides they shall be given fully paid-for health insurance, which American workers do not get.

It provides that the worker organizations and employers are the ones to receive the applications for temporary status. But, they cannot provide that application or the information in the application to the Department of Homeland Security unless they have the legal authority to receive that information or evidence in the application pertaining to a crime, but, apparently the sponsors of this amendment are not concerned about that. Instead, they want the applications and the information that is given to the organizations and associations that are authorized to receive them kept from the Department of Homeland Security. As a matter of fact, the only way your application is allowed to go to the Department Homeland Security and its various agencies—the only way it can go there—is if you have a lawyer. If you do not have a lawyer, your application has to go to one of these groups who will send it to DHS for you. These groups are not independent, fair groups.

The employer groups and the worker organizations are groups that have a special interest in promoting this. So this is not protecting the interests of the people of the United States to give up power over two groups, both of which have a special interest in promoting people coming into this country. And, of course, there are no numerical limits on the number of aliens who would be given amnesty. Also, finally, I would note, as the Senator from Georgia is well aware, group after group that are said to have been in favor of this legislation have changed their mind or oppose it. The National Farm Bureau no longer supports the AgJOBS. Farm groups all over the country are opposed to it. I know that the largest individual H2A employer in the country opposes the AgJOBS amendment. I also know that the largest co-op user of the H2A program—the North Carolina Growers Association—opposes the amendment. I have received letters from Mid-Atlantic Solutions, the Georgia Peach Council, AgWorks, the Georgia Fruit and Vegetable Growers Association, the Virginia Agricultural Growers Association, the Vidalia Onion Business Council, and the Kentucky-Tennessee Growers Association all of which oppose the passage of AgJOBS.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has used 11 minutes.

Mr. SESSIONS. Mr. President, I am going to put this chart up and make a couple of points in relation to some of the details in the act that are really breathtaking in their scope.

I mentioned the amnesty provisions already. The AgJOBS amendment also overrides State law by eliminating “at will” employment, where an employer or employee can leave the employment whenever they chose. This says, if you come in under this Act, you cannot be terminated, except for just cause. To make sure that happens, this act has about six pages creating an arbitration situation where the Federal Government pays to arbitrate these disputes, an arbitration system that is not made available to an American citizen. They do not get that protection. It will also provide illegal aliens with taxpayer-funded legal assistance through the Legal Services Corporation to process their applications for legal status.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has used 10 minutes.

Mr. SESSIONS. Mr. President, I ask if the Senator would mind if I have 3 additional minutes.

Mr. CHAMBLISS. How about 2?

Mr. SESSIONS. Two minutes.

Mr. CHAMBLISS. Mr. President, I yield 2 additional minutes to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.
Idaho has 9 minutes. The Senator from Massachusetts has 29 minutes.

Mr. CHAMBLISS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe the Senator from Massachusetts will be arriving soon. His time and my time are for the same purpose. He has given me the ability to use up some of that time, and I ask unanimous consent for those purposes because there is no one on the floor from the other side to visit with about that.

Senator CHAMBLISS mentioned year round work in the nursery and landscape industry. The nation’s premiere nursery and landscape association is the co-chair of the vast coalition supporting AgJOBS. Why? Because they know AgJOBS will work. It will provide what they need. The blue card system in the substitute amendment will not. It is written so narrowly that there will be little incentive for workers to come forward and it will be cumbersome to use.

The Senator mentioned misdeeds. AgJOBS goes beyond current law in the good behavior it requires. We would deport for a single felony, for any of three misdemeanors, however minor, and for any one serious misdemeanor, which involves 6 months jail time. But if I were to ask you, as a misdemeanor, you are talking about some truly minor things, like loitering, Jaywalking, parking a house trailer in a roadway, or making known in any manner what library book another person borrowed. These are misdemeanors in different states. We do tighten up the law. We do require better behavior than it is. It is better than that of other, legal immigrants. But the punishment should be proportional to the offense. We provide for that.

I want to go through one thing again in some of the time we have left because what Americans are frustrated about today—and it is the solution we have offered up or the solution our other colleagues have offered up—is that history has shown us what works and what does not work. For border security, I know I have been wrong. Corrected by the Senator from Arizona for the language I have used, and appropriately so—my guess is, if we did not put $7 billion on the border and into internal enforcement, if we put $14 or $15 or $20 billion on the border, we could probably finally do a fairly good job of locking that border up. Of course, the more persons we lock out, the more undocumented persons we lock in. We need to deal with that, too.

Americans are frustrated. They want that border secure. It is part of our identity that this particular type of enforcement, we have a guest worker program that faces up to the economic reality of our country.

That is what we are talking about. We did that some time ago. We did that as the time has come up. We have not step back from being very clear about it in the way the employee was treated. That is partly what brought the program down. But we literally saw numbers of illegals drop almost to nothing and flat-lined from through the 1950s into the early 1960s, and the Bracero Program worked.

What had we done? We matched Border Patrol along with effective law enforcement along with a guest worker program that worked. Along came the 1960s. We changed it and eventually wound up with the current law. We flat-lined, by bureaucracy, the number of guest workers we allowed legally into the program on an annual basis.

Here it is, as shown on this chart. Preventions of illegals and illegal entry began to rise. What happened last year, as this very dysfunctional program all but broke down? We were back at 1.2 million apprehensions. America has asked for a solution. We have brought a solution to the floor. The only experience our country has had on a broad basis with the a legal guest worker program is the one I have outlined.

AgJOBS is a groundbreaking, necessary part of balancing a realistic approach to solving this problem. American agriculture has boldly stepped forward and admitted they have a problem.

They are not hiding behind lobbyists saying: Lift the lid in a certain program, allow more people in. They are almost in a panicked way saying to us: We have a 70-plus-percent illegal problem that we are dependent upon for the majority of our laborables. That allows for the supplying of the American food shelf with its food. Please do something about it. Please provide a vehicle that allows these people to be legal, and we will agree to work with you in setting up the necessary mechanisms to make sure they are treated right, the housing is there, they are paid well, and all of those kinds of things.

If we don’t have a legal work force in place, and we continue to lock up the border—and we should—and we all do the things that things, such as counterfeitable ID cards, we literally could collapse American agriculture. That is something this Congress should not be responsible for doing simply by being negligent.

That is why for the last 5 years and more I have worked on this issue. We have worked cooperatively, Democrat and Republican alike—Congressman GISERMAN, we do. For at this moment from the House, Congressman CHRISS CANNON, Senator TED KENNY, and I—for hours and hours, with all the interested groups, now 509 groups, over 200 of them in agriculture. We could probably finally do a fairly good approach. We didn’t come up with it, as my colleagues have, as a blocking measure to stop this legislation by throwing at the last minute something into the mix, by changing the color from green to blue and suggesting that it is new because it is blue. They do a few of the things we do, but ours is a much broader program and bipartisan. That is significant as we try to move legislation forward to solve this problem.

As I have said, the agricultural sector has the worst problems ever. Fifty to 75 percent of its farmworkers are undocumented. As internal law enforcement has stepped up, farms large and small are going out of business because they can’t get the workforce at the time they need it to plant the crop, to pick the crop, to harvest the crop. This mighty machine we call American agriculture, which has fed us so well for hundreds of years, is at a very dangerous precipice, perhaps the most dangerous period in its history.

This year for the first time since records were kept, the United States will be on the verge of becoming a net importer of foodstuffs. Hard to imagine, isn’t it? The great American agricultural machine, and now we are at a point of being a near net importer of foodstuffs. We did that with energy. When I came to Congress in 1980, we supplied the majority of our own energy. Now, we are a net importer. We did that with oil. When we got here, we were supplying most all of our minerals. Now we are a net importer. Are we going to let this happen with food because we can’t agree on a reasonable program to have one of the most valuable inputs into agriculture stabilized, secured, and legal, and that is the workforce?

No, we have all come together, Democrats and Republicans, labor, farmworker organizations, Hispanic groups. That is what happened before you in AgJOBS. That is why it got 63 cosponsors last year. We are nearly at 50 today, and building. Its time is now. It is important we have this vote that will occur this morning. It is a critical piece of legislation.

And this is what that every year on the Arizona border, the California border, New Mexico, Texas border, over 300 people die trying to get into this country to earn a wage. They do that because of a dysfunctional H-2A labor, because of a system that does not provide for a legal work force, and because of bad people who prey upon them as victims, and they are literally victims of
a law and victims of a broken process. We ought not stand idly by and allow that to happen, either. Control our borders? You bet. Create a legal work force? Absolutely. Apprehend illegals after we have created this system that works well? Absolutely. The integrity of a country is based on the control of its borders and the ability to openly and fairly assimilate into its culture immigrants who come here for the purpose of benefiting not only from the American dream but by being a part of us. This is the American way.

The other side is the realistic understanding that there will be those who simply want to come and work and go home. There are types of work that they can qualify for that Americans cannot do or choose not to qualify for, and they ought to be allowed to do that. American agriculture depends on it, as do many other segments of our economy. It is critically important that we respond accordingly.

Last fall, in the program, the broken law, about 40 plus thousand H–2A workers were identified and brought in legally by that law. Yet, in the same agricultural group, there are a total of 1.6 million workers. That is how we came up with those numbers of some 70-plus percent undocumented workers or somewhere in that area. There has been a great effort by the other side to confuse the argument. We believe in the Department of Labor Statistics. The Department of Labor statistics show that, under the Craig-Kennedy provision, about 500,000 workers would be eligible to apply for adjustment, to start the process, and they have about 200,000, maybe 300,000 dependents who would qualify, not millions and millions and millions. That is so unrealistic when we are looking only at a field of 1.6 million to begin with. That is the reality. That is the honest figure. We didn’t come up with it just in the dark of night. This has been 5 years on the books. We have been working with the Department of Labor and analyzing and understanding what the workforce is, who would stay and who would go home, who would not come forth to be identified and who would.

That is why it is time now that we allow this legislation to move forward for the purpose of it becoming law. America demands that we respond. Twelve hundred days after 9/11 and we have not yet responded to the reality that is probably one of the most significant challenges the United States as a nation has ever faced—to control our borders, control our destiny, recognize our needs, understand our economy, be humane and fair to people, and do all of those things within the law. That is our responsibility to make that happen. It is without question a very important process.

I ask unanimous consent that time under the quorum call be equally divided.

Mr. KYL. Mr. President, reserving the right to object, we don’t have very much time on our side, and that would mean that we could get out of time without the other side even coming down here until the very end. May I ask the Chair—I would like to pose a parliamentary question—under the agreement that was entered into, the time is not taken equally off of both sides until the end.

The ACTING PRESIDENT pro tempore. No, it is not. That requires unanimous consent.

Mr. KYL. Further reserving the right to object, because there is only about ten minutes left on this side and a half hour left on the other side, that would mean our time could be wiped out without another word even being spoken. I would not agree to that at this time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho has consumed his time. The Senator from Massachusetts now has 24 minutes. The Senator from Georgia has 11 minutes.

Mr. CRAIG. How much time, then, is left on all tables?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has consumed his time. The Senator from Georgia has 11 minutes.

Mr. KYL. The Senator from Massachusetts has 24 minutes. The Senator from Massachusetts now has 24 minutes. The Senator from Georgia has 11 minutes.

Mr. KYL. Further reserving the right to object, because I think this is the perfect time.

Mr. CRAIG. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. I will continue to consume time of the Senator from Massachusetts. I understand he is en route to speak on behalf of AgJOBS. We will continue to do that. Over the course of the last day, I have sent to the desk several letters. The first letter was to the roll call. There has been a great deal of criticism because there are those out there who simply don’t believe anybody ought to be allowed into the country under any circumstance, even though we are a nation of immigrants. Our strength, energy, and dynamics have been based on the phenomenal immigration from all over the world that has produced the great American story.

Our strength, energy, and dynamics have been based on the phenomenal immigration from all over the world that has produced the great American story as we know it. That immigration, to keep our economy moving, to keep our culture where it is, strong and vital, is going to need to continue. But we need to control it in a way that allows the reasonable kind of assimilation that successful cultures have been able to accomplish down through the centuries. Those are controlled, managed immigration into our country. We are not doing that, and we have not done it for 2 decades.

We did it for two reasons. Actually, we started doing it after 9/11 for terrorist purposes because we were fearful that we would see terrorists coming up through Mexico and into the southern part of the United States or across our southern border or, for that matter, across our northern border. At the same time we were experiencing a near flood of people coming across those borders attempting to identify with work in our country. As you can see, the number of apprehensions of illegals peaked in about the year 2000. It was dropping. We started pushing heavy money at it. But it has begun to climb again.

The reality is, we are now putting about $7 billion a year into it and last year apprehended approximately 1.2 million illegals. We are stepping up to that plate now and stepping up aggressively, and we will keep moving, to keep people coming across.

I have just joined with the Senator from West Virginia, Mr. Byrd, to take money out of this supplemental in areas where we didn’t think it was needed to put more into Border Patrol. But as I have said earlier, there is not just a single solution to this problem. We have to be able to control the numbers of people coming across by stopping their belief that if they get across the border, there is a job. We have to provide a legal work force system that works. You do that by identifying the employees and the employers, and doing so as we did historically in the past and as AgJOBS clearly does in the major reform of the existing law, the old H–2A program, which has allowed these problems to occur and is totally not functional today.

That is what we have offered. We think it is tremendously important. It is not without criticism, and we certainly know that. Any time you touch the immigration issue, it is not without criticism because there are those who simply don’t believe anybody ought to be allowed into the country under nearly any circumstance, even though we are a nation of immigrants. Our style, energy, and dynamics have been based on the phenomenal immigration from all over the world that has produced the great American story as we know it. That immigration, to keep our economy moving, to keep our culture where it is, strong and vital, is going to need to continue. But we need to control it in a way that allows the reasonable kind of assimilation that successful cultures have been able to accomplish down through the centuries. Those are controlled, managed immigration into our country. We are not doing that, and we have not done it for 2 decades.
As I have said several times on the floor in the last day and a half, awakening from 9/11 was a clear demonstration of that reality, that there were 8 million to 12 million undocumented foreign nationals in our country whom we were losing every year. Several Senators have been saying: Oh, we will get something done by late this year or early next year. There is nothing on the drafting table. There are some hearings being held. No comprehensive work is going on that will identify the broader picture and the very important, specific segment of our economy. Meanwhile, there will be crops in the fields, and we need a legal work force, identified and trusted, to put that food on our family's table. The authors of this legislation, AgJOBS, recognize this is not a comprehensive piece but it is a piece that deals with a segment of our economy that is in the most critical need of their help—solved today—the economy that feeds us, puts the food on the market shelves for consumers in a safe, reliable, healthy fashion. That is what we are talking about today. We are talking about the need of American agriculture to be able to respond to what is so very important on a seasonal basis—planting, tending, harvesting America's food supply.

So that is why I am here, and I am not taking it lightly. We are most serious about our effort to try to respond to this problem. We have been attempting to gain access to the floor for over a year for this debate and not to denounce it as something we simply put off. That is what we believe is the essence of what we do. That is why the Senator from Massachusetts—who is much different from I politically—and I have come together, as that broad-based coalition demonstrates. All politics have come together, left, right, and center, Democrat, Republican, labor, employer. Why? Because of the very critical nature of the problem before us and the importance that we effectively respond, for the sake of America, to control our borders, to identify the undocumented who are within, to provide American agriculture with a safe, identifiable and, most importantly, legal labor supply. I see my colleague from Massachusetts has joined us on the floor. With that, I retain the balance of our time.

The ACTING PRESIDENT pro tempore, Who yields time?

Mr. KENNEDY. Mr. President, I ask the Chair, what is the time allocation presently?

The ACTING PRESIDENT pro tempore. The Senator has 13 minutes 40 seconds.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, I want to thank my friend, Senator Craig, for his leadership in this area. As he just mentioned at the end of his comments, Senator Craig and I do not share a great many common positions but we both are enthusiastic about the legislation. We come to it from different interests, over long periods of time. He may remember, as I very well do, in the early 1960s, we had what was called the Bracero issue and problem. It was a very deep and extraordinary exploitation of workers who came across the border living in these absolutely inhumane conditions and being exploited like workers in no other part of the world. It took us a long time to get away from the Bracero problem and issue. There was enormous conflict between the workers and the growers for many years. I remember very distinctly the work of Cesar Chavez and the great interest that my brother Robert Kennedy had in the rights of immigrants. It was a poisonous atmosphere year after year.

And now, through the hard work of many of those who were enlightened in the agribusiness, as well as the leadership with farmworkers, they came together, I paid great respect to our House colleagues, Congressman Berman and Congresswoman Cannon, for their constancy in watching this issue develop. Mr. President, we have an opportunity in the Senate now to take a dramatic step forward toward true, meaningful, significant immigration reform. Agribusiness is only about 10 or 12 percent of the total problem. But should the Senate of the United States, in a bipartisan way, come to grips with this issue in a meaningful way, it will open the path for further action in these next few weeks and months so we can have a total kind of different view and way of handling immigration in our country.

The current system is a disaster. It is enormously costly and unworkable. We have spent more than $24 billion over the period of the last 6 years, and the problem has gotten worse and worse. We hear talk about extending a fence across the borders in southern California for a number of miles. We have to be reminded the total border in the South is 1,880 miles. Are we going to have a fence that is going to extend that far? What is the period of the future? This system just does not work. We do not have enough border guards or policemen out there who are going to the borders. We have to have a dramatic alteration and change. We are not going to deport the 7 million or 8 million undocumented that are here, that are absolutely indispensable, primarily in the agricultural sector, but are playing increasing roles in other sectors as well. So we face an extraordinary problem. With all due respect to those who have tried the hard-line way of doing it, they have not been able to demonstrate any success. We hear those voices in the Senate, again: Give us another 500 border guards or some more barbed wire or another extension of the fence, let us just provide some additional kinds of technology, and we will solve our problem.

We have learned that lesson. We should have learned that lesson. Now we have an opportunity, under the proposal Senator Craig and I have proposed, and in a bipartisan way, to try a different way.

With all respect to those who oppose this, we believe this is absolutely consistent in terms of our national security issues. The dangers to national security are what happens in the shadows, the alleysways. What is happening in the shadows and alleysways is happening among the undocumented. People are able to hide in those areas. If we bring the sunlight of legality to an immigration policy, we are going to make it much more difficult. We are going to free up border guards to be able to go after those who might be terrorists, instead of constantly looking out for the undocumented that are traveling back and forth across the border. If we have learned something over the period of time, it is immigration reform is not the problem is the terrorists. The best way to deal with that is to focus both manpower and technology to be able to deal with that.

Now, our effort also responds to and rebuts the idea that this is amnesty. That is the quickest way to kill the legislation. People can say, look, this is amnesty, and then go back to their offices, and that shakes people up enough to say they are not going to support that. We are talking about men and women who have lived and worked here, paid their taxes here, and they have to have done it some time ago. We are not talking over the last year; we are talking about people who have worked and have a part of the communities a number of years ago, to permit them a long period of time, probably stretched over a period of 7 to 9 years before they would even be eligible to start down the path toward citizenship—a long period of time.

Mr. President. It just seems to me that these issues have been debated and discussed. Some have been misrepresented.

Finally, this has a dramatic impact in terms of both working conditions and labor conditions for those who are going to be impacted by this issue. It is going to have a similar kind of impact in terms of American workers. You have undocumented, you have illegal workers; they are going to be exploited, and they are going to drive wages down, they are going to fear their boss or their employer might tell on them. Therefore, they are going to settle for less in terms of payment. That is not natural. We can understand that. We have the figures and statistics to demonstrate that. But when you drive those wages down, you drive the wages down for American
workers in related industries in those areas, and we have the figures to show that, too. This has a depressing impact in terms of legitimate American workers as well.

So I think this is an enormously important issue, and we are able to support for this legislation, this will be a pathway to try to deal with the rest of the scene on immigration. If we are able to get the downpayment, which this is, this will open a new day and new era as far as immigration is concerned.

I don't often agree with the President of the United States, but he has at least addressed this issue. We come to different conclusions with regard to the ability to be able to earn their way into legitimacy on this issue. Nonetheless, he understands. We can understand why; he has been a Governor of a border State. I hope we can find a way of developing a common ground here—Republicans and Democrats, those who have been interested and have followed the controversy here in terms of its ribiousness, those of us who have been proud to represent the workers who, over a long period of time, have been exploited in too many instances and who have suffered. All they are looking for is a way to earn respect and some ability to rejoin with members of their families. Not long ago, the Senate considered fast-track legislation regarding those individuals who were serving in the Armed Forces overseas—a number of them, actually lost their lives—and those who have been permanent resident aliens—not even citizens, but were permanent resident aliens who served in our Armed Forces. The President gave citizenship to some who were killed in Iraq. We were able to try to provide for those going into the military at least some ability to faster citizenship. They were prepared to go to Iraq to die and fight for this country. All they wanted to do was be able to live in this country as well. If they were going to do that, we have to go and understand and respect their service to this Nation. We provided an opportunity to move their process toward citizenship faster, if they were going to serve in the Armed Forces or be in the Guard and Reserve, with the real prospects of going to Iraq. Are we going to say that those individuals, they are going to be able to get consideration, and their brothers and sisters who may not have gone into the service are still going to have to live in the shadows?

It seems to me we ought to be able to find common ground. We ought to be able to provide common ground here when we recognize the current process and system is a disaster.

We have an unregulated system where illegality is running rampant and, quite frankly, those who are opposed to us and offer alternatives are offering more of the same.

This is an opportunity for a breakthrough. There is an opportunity for a new start. This is an opportunity for a bipartisan effort that is going to do something significant about the challenges we are facing with immigration. I hope it will be successful.

I withhold the remainder of our time.

Mr. LEAHY. Mr. President, I am a co-sponsor of the AgJOBS bill, which will do a world of good for farmers and farmworkers in Vermont and around this nation.

First, this amendment would reform the H2A program for temporary agricultural labor. As it currently exists, this program is cumbersome and deeply unpopular with farmers. As a result, it is underused and promotes the widespread use of illegal labor on our Nation's farms. Indeed, experts estimate that more than half of our Nation's farmworkers are here illegally.

Second, this amendment would provide an opportunity for that illegal workforce to come out of the shadows and obtain legal permanent residency in return for the contributions they have made and will make to American agriculture, both before and after enactment. It would allow undocumented aliens who can demonstrate that they have worked in agriculture for 100 or more days in a 12-month period during the last 18 months to apply for legal status. Eligible applicants would be granted permanent resident status. If the farmworker then works at least 360 days in agriculture during the next 6 years, he or she may apply for permanent resident status. Workers would be free to choose from any employer. These provisions would create a substantially larger legal, stable workforce to come out of the shadows from which farmers around the country could hire. And without these provisions, it is difficult to see why farmworkers currently here illegally would come forward and announce their presence.

The AgJOBS bill is supported by a broad coalition of the agriculture industry and farmworker union and advocacy groups. It has broad bipartisan support in the Senate, and I urge all Senators to support for in the Chambliss-Kyl amendment. The Acting President pro tempore, Who yields time?

Mr. CHAMBLISS. Mr. President, what is the time remaining?

The Acting President pro tempore. The Senator from Georgia has 11 minutes. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. CHAMBLISS. Mr. President, I yield myself 5½ minutes.

The Acting President pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, we are coming to the close of the debate on this issue. I think it is important that we review for those of our colleagues who are listening, as well as the American people who are listening relative to this issue, concerning whether we should grant amnesty to illegal aliens who are in this country, who are working in the agricultural field and who will make a pathway to citizenship, or should we grant to those individuals an accommodation to stay here, assuming they are law abiding, assuming they are working in agriculture for an employer who needs them and they are not displacing an American worker, and where they will always be categorized as a temporary worker. That is the fundamental difference between our two bills.

I say to the Senator from Idaho, as well as the Senator from Massachusetts, again, I appreciate the debate we have had this morning because we have strung at the nerve of this issue relative to the agricultural sector.

The Senator from Massachusetts is right. This is, in all probability, going to lay the groundwork for the broader overall issue we will deal with relative to immigration. I hope we could have dealt with this issue in a broader immigration bill, but with the rules of the Senate being what they are, we are here today talking about the supplemental for the Iraq war, and this is an amendment that we do need, that stable, quality supply of agricultural employees for our farmers and ranchers around America, and they agree with Senator KYL and myself that we need to do it in a way that gives these workers a temporary status, does not displace American workers, allows our employers—our farmers and ranchers—to only hire those individuals who have had a background check by the Department of Homeland Security and have no criminal record whatsoever, as we provide for in the Chambliss-Kyl amendment. They have sent a letter to each Member of the Senate. They have sent letters to all of their membership around the country, as well as being on the telephone calling those folks today asking them to contact their Senators and request that they vote for the Chambliss-Kyl amendment.

The reason the American Farm Bureau has done that is the American Farm Bureau knows and understands that the most recognized agricultural group in America, the American Farm Bureau, has endorsed the Chambliss-Kyl amendment. They have sent a letter to each Member of the Senate. They have sent letters to all of their membership around the country, as well as being on the telephone calling those folks today asking them to contact their Senators and request that they vote for the Chambliss-Kyl amendment.

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have worked very hard on this measure over the last several months to try to ensure that we accommodate all of our farmers’ and ranchers’ needs across America. Today we think streamlining the H-2A process, which will give us a prevailing wage rate that our employers can pay to their agricultural employees, will provide a streamlined paperwork process to allow our H-2A employers to have that ready supply of labor in a short period of time and to make sure that when they complete the job they have been allowed to come here to do, they go back to their country as available to our farmers and ranchers.

Also, with the blue card provision we have in our bill, farmers and ranchers who need employees for a period in excess of a small window will have available to them employees who can be here for up to 3 years provided the Department of Homeland Security has done a background check and determined they have never violated the law in this country, provided that those employees never be given anything but a temporary status, and provided that those employees agree and acknowledge that they will never be allowed to apply for a green card for permanent status or for citizenship in any way whatsoever, other than under what is existing law today.

Mr. President, I yield the floor and reserve the remainder of my time.

The ACTING PRESIDENT pro tem. Who yields time?

Mr. KENNEDY. Mr. President, what is the time situation again?

The ACTING PRESIDENT pro tem. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. KENNEDY. The other side?

The ACTING PRESIDENT pro tem. Four minutes 51 seconds.

Mr. KENNEDY. I yield myself 2 minutes.

The ACTING PRESIDENT pro tem. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, one of the favorite techniques around here is people misstate what is in a particular proposal and then differ with it. I do not accuse anyone of doing that on this particular legislation, but I do believe they ought to listen to Senator Craig and myself as to exactly what our bill does and what it is intended to do. If there are other techniques that will make these points clear, we are glad to do it. We want to free ourselves from distortions and misrepresentations.

Opponents of reform continually mislabel any initiative they oppose as amnesty in a desperate attempt to stop any significant reform. Instead of proposing ways to fix our current broken system, they are calling for more of the same—increased enforcement of broken laws. However, enforcing a dysfunctional system only leads to greater dysfunction.

To be eligible for legal status, applicants must present no criminal or national security problems. All applicants will be required to undergo rigorous security clearances. Their names and birth dates have to be checked against our Government’s criminal and terrorist databases. Applicants’ fingerprints will be sent to the FBI for a criminal background check which includes checking their fingerprints with all arrest records in the FBI’s database.

Contrary to arguments made by detractors of AgJOBS, terrorists will not be able to exploit this program to obtain legal status with any terrorist activity ineligible for legal status under our current immigration laws and would be ineligible under the AgJOBS bill. Our proposal has no loopholes for terrorists.

Opponents of AgJOBS claim this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make one ineligible to obtain a green card. Applicants can also be denied legal status if they commit a felony or three misdemeanors. It does not matter whether the misdemeanors involve minor offenses. In addition, anyone convicted of a misdemeanor who served a sentence of 6 months or more would also be ineligible.

Finally, opponents of the AgJOBS bill also claim it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the guest worker program, farmworkers must establish that they worked in agriculture in the past. Farmworkers must have entered the United States prior to October 2004; otherwise, they are not eligible. The magnet argument is false. New entrants who have worked in agriculture will not qualify for this program.

This is a sensible, responsible, well-thought-out program that has had days of hearings and weeks and months of negotiations. It is a sensible answer, a downpayment to a problem this country needs to address. I believe, with all respect to my friends and colleagues on the other side, their proposal is more of the same. I hope the Senate will support our amendment.

The ACTING PRESIDENT pro tem. The Senator’s time has expired. Who yields the time?

Mr. CHAMBLISS. Mr. President, I yield the remainder of my time to the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tem. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me try to summarize the status of this debate over the last couple of hours as pertinent to both of these propositions.

The first to be voted on is the Chambliss-Kyl proposal, and then the second will be the Craig-Kennedy proposal. Both need 60 votes to pass.

The first point I make to my colleagues is that we voted in this body on a sense-of-the-Senate resolution saying we should have this immigration de-bate later when we can do it right and can take all the time we need, where everybody can participate in it and know how to approach the problem not just from the standpoint of agriculture, in fact, but for a total attempt to solve our immigration reform issues in this country.

We decided that it would not be a good idea to try to have that debate on the supplemental appropriations bill because it would hold up the bill. Guess what has happened. We are in the second week of debate on this bill to fund our troops in Afghanistan and Iraq, and there is still no end in sight. If either one of these proposals gets the 60 votes, we have to go to the races with lots more amendments, debate time, and I do not know when we will get to finish the supplemental appropriations bill, which the distinguished chairman of the committee has been urging us to get finished before we go back home and then we invite them to come back in that sense, it would be a shame if either one of these two propositions got the 60 votes. That is my first point.

The second point is that as between the two, both attempt to reform our immigration system by matching willing employer with willing employee, but one of them does so in a way that is going to, in fact, attract people to this country who have been here illegally in the past and under the provisions of the bill would enable them to come back.

People who have already gone home would be able to present themselves at the border and simply claim and try to demonstrate that they are workers in this country illegally in the past and, therefore, they get to come back in again. I do not know of anything that makes less sense than having an illegal immigrant who worked here illegally go back home and then we invite them to come back into the country to get legal status simply by working in the fields again. That makes no sense.

Secondly, it is very clear that one version is amnesty and the other is not. You cannot argue that when you give an advantage to people who broke the law in terms of obtaining legal permanent residency, which Chambliss-Kyl does not do, and, therefore, a path to citizenship, which Chambliss-Kyl does not do, you cannot argue that advantage given to these people who have broken our laws is not a form of amnesty. That is the key substantive difference between these two bills. Both try to match willing employer and willing employee. One does it without amnesty and the other does it with amnesty. What we mean by that is amnesty meaning legal permanent residency and a pathway to citizenship which is achieved by virtue of the fact that somebody worked here illegally in the past. That is not, we believe, a good idea and a way to start off with a new guest worker program that we all agree needs to be enforceable and enforced.

We need to control our borders. We need to have a workable law. It needs
The PRESIDING OFFICER. On this vote, the yeas are 21, the nays are 77. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. COCHRAN. I move to reconsider the vote.

Mr. KYL. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETINGS

Mr. FRIST. Before we vote, I have 10 unanimous consent requests for committees to meet. The request has been cleared on both sides, and I ask for these requests and ask that the requests be printed in the RECORD.

Mr. REID. Reserving the right to object, does this include—

Mr. FRIST. This is for 10 requests for committees to meet, other than the Committee on Foreign Relations.

Mr. REID. If we have a unanimous consent request that committee request be granted and the committee be allowed to meet at 2:15.

Mr. REID. I object.

Mr. FRIST. I am disappointed there is an objection allowing this important committee to do its work. That will make it necessary to recess for a period this afternoon to give Chairman LUGAR an opportunity to have his committee meet. I understand there may be a request from the other side for a vote on the motion to recess. Senators should be on notice that if we are unable to work out this objection, we will vote at 2:15 this afternoon. Unfortunately, this recession will not allow debate and votes on additional amendments to the underlying emergency appropriations prior to this afternoon's cloture vote.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Craig amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Larry E. Craig, Mitch McConnell, Elizabeth Dole, Judd Gregg, Saxby Chambliss, Trent Lott, George V. Voinovich, Arlen Specter, Bob Bennett, Pete Domenici, Pat Roberts, John E. Sununu, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that the debate on amendment No. 375, offered by the Senator from Idaho, Mr. CRAIG, shall be brought to a close? The yeas and nays are manda-
ty under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW, I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent, the clerk.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows: [Rollcall Vote No. 98 Leg.]

YEAS—53

NAYS—45

Durbin Obama

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. COCHRAN. Mr. President, 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. Mr. President, we have several amendments that have been cleared on both sides, and I am prepared to bring those to the attention of the Senate.

AMENDMENT NO. 547

Mr. President, I send to the desk an amendment on behalf of Mr. Bond regarding Federal Housing Enterprises Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 411

Mr. COCHRAN. Mr. President, I call up amendment No. 411 on behalf of Mr. Santorum regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 407

Mr. COCHRAN. Mr. President, I call up amendment No. 407 on behalf of Mr. Reid regarding the Walker River Basin.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 547

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. Landrieu regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 547) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 527

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. Landrieu regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

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:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 411

Mr. COCHRAN. Mr. President, I call up amendment No. 411 on behalf of Mr. Santorum regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 411

Mr. COCHRAN. Mr. President, I call up amendment No. 411 on behalf of Mr. Santorum regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 407

Mr. COCHRAN. Mr. President, I call up amendment No. 407 on behalf of Mr. Reid regarding the Walker River Basin.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 527

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. Landrieu regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 547) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 547

Mr. COCHRAN. Mr. President, I call up amendment No. 547 on behalf of Mr. Bond regarding Federal Housing Enterprises Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 411

Mr. COCHRAN. Mr. President, I call up amendment No. 411 on behalf of Mr. Santorum regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 407

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The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 547

Mr. COCHRAN. Mr. President, I call up amendment No. 547 on behalf of Mr. Bond regarding Federal Housing Enterprises Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 411

Mr. COCHRAN. Mr. President, I call up amendment No. 411 on behalf of Mr. Santorum regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 407

Mr. COCHRAN. Mr. President, I call up amendment No. 407 on behalf of Mr. Reid regarding the Walker River Basin.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 527

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. Landrieu regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 547

Mr. COCHRAN. Mr. President, I call up amendment No. 547 on behalf of Mr. Bond regarding Federal Housing Enterpr
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 implement the Yellowstone West Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 476

Mr. COCHRAN. Mr. President, I call up amendment No. 476 on behalf of Mr. BYRD regarding the Upper Tygart Watershed project.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BYRD, proposes an amendment numbered 476.

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 transfer funds relating to certain watershed programs of the Department of Agriculture.)

On page 198, between lines 21 and 22, insert the following:

Sec. 5314. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, $4,000,000 shall be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. BYRD. Mr. President, the amendment I am offering today is technical in nature in that it will provide for the transfer of previously appropriated funds from one ongoing Natural Resources Conservation Service, NRCS, project in West Virginia to another. The two projects involved are the Upper Tygart Valley Watershed project and the Lost River Watershed project. The Upper Tygart project will, once completed, provide water service to at least 16,000 residents in Randolph County, WV. The Lost River project is a series of dams that were designed to provide flood control, water supply, and recreation in Hardy County, WV.

The Upper Tygart Valley Watershed project requires a final $4 million in funding to initiate construction. The additional funds are necessary due to the fact that the project design was not yet completed when cost estimates for the project were formed. There has also been a dramatic rise in the cost of building materials for the project.

Funding in the amount of $4.2 million was provided to the Lost River Watershed project in the fiscal year 2005 Agriculture Appropriations bill. However, the project cannot proceed to construction in the current fiscal year due to a change in the project purpose requested by the project sponsor and subsequent requirements for the NRCS to reevaluate the project.

Due to these circumstances, I am offering this amendment which will provide the Natural Resources Conservation Service authority to transfer the previously appropriated construction funds from the Lost River Watershed project to the Upper Tygart Valley Watershed project. This action will enable the NRCS to initiate construction of the Upper Tygart project during the coming months. Again, I would like to reemphasize to my colleagues that this amendment does not appropriate new funds but instead transfers previously appropriated funds between two existing Natural Resources Conservation Service projects in West Virginia.

I thank my colleagues for their support of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 476) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 548

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. LEAHY regarding the protection of the Galapagos.

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 548.

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 encourage the Government of Ecuador to protect the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.)

(a) The Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directors of the Galapagos National Park Service through a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long-term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 548.

The amendment (No. 548) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I have no further amendments to present to the Senate at this time.

I yield the floor.

AMENDMENT NO. 499

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the amendment offered by the senior Senator from Virginia, Mr. WARNER, of which I am a cosponsor as well as the two Senators from Florida. The Department of Defense is on an ill-timed course to weaken our military strength by reducing the number of aircraft carriers from 12 to 11 and maybe even more. This decision is completely inconsistent with recent past statements on the absolute number of carriers needed to conduct operations.

According to ADM Vernon Clark, Chief of Naval Operations, just a little over 2 years ago:

The current force of 12 carriers and 12 amphibious groups is the number we can have and sustain the kind of operations we are in.

According to the 2002 Naval Posture Statement:

Aircraft carrier force levels have been set at 12 ships as a result of fiscal constraints;
however, real-world experience and analysis indicate that a carrier force level of 15 ships is necessary to meet the warfighting Commander in Chief’s requirements for carrier presence in all regions of importance to the United States.

I am not convinced that reducing our carrier fleet is the best strategic decision in the midst of our global war against terrorism. Realistically, it looks like the Department of Defense and the Navy are maneuvering quickly to negate any legislative oversight. But we in Congress should make sure that all considerations are taken into account. I believe that 10 to 15 aircraft carriers may not be enough to fight this global war on terrorism.

That is why this amendment is being offered. What does this amendment achieve? First, the amendment ensures that the Navy proceeds on the scheduled necessary maintenance of the USS John F. Kennedy so that the carrier is kept in active status. In addition, this amendment authorizes the Navy to keep the Kitty Hawk and the USS Midway as the last remaining carriers until the latter of the following: 180 days after the quadrennial defense review comes before Congress or that the Secretary of Defense has certified to Congress that agreements have been entered into with private port facilities for the permanent forward deployment of such aircraft carriers that are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that command.

Moreover, it is important that we keep the Kennedy available because Admiral Clark stated that it is essential to have a carrier home ported in Japan. However, we know that Japan has serious reservations—in fact, prohibitions—about allowing us to port a nuclear carrier there, and currently there is no sign that that prohibition would be removed for nuclear carriers. Therefore, if we are going to keep these aircraft carrier battle groups steamed in to show resolve during a moment of high tension over Taiwan in 1996—Chinese leaders have sought to field enough modern warships to ensure that any U.S. decision to intervene again would be painful and fraught with risk.

As far as is known, China’s military has not completed the weapon system that suddenly changes the equation in the Taiwan Strait or surrounding waters where Japanese and U.S. forces deploy, the specialists said. In other words, China is still in the midst of building up its military for more than two decades, seeking to push the low-tech, manpower-heavy force it calls a people’s army into the 21st-century world of computers, satellites and electronic weapons. Although results have been slow in coming, they added, several programs will come to fruition simultaneously in the next few years, promising a new level of firepower in one of the world’s most volatile regions.

“This is the harvest time,” said Lin Chong-pin, a former Taiwanese deputy defense minister, in the recent issue of the Chinese Military at the Foundation on International and Cross-Strait Studies in Taipei.

U.S. and Taiwanese military officials pointed out the rapid development of cruise and other antiship missiles designed to project the electronic defenses of U.S. vessels that might be dispatched to the Taiwan Strait in case of conflict.

The Chinese navy has taken delivery of two Russian-built Sovremenny-class guided missile destroyers and has six more on order, equipped with Sunburn missiles able to skim 4½ feet above the water at a speed of Mach 2.5 to evade radar. In addition, it has constructed the first two Jin-class diesel submarines that carry Club anti-ship missiles with a range of 145 miles.

“These systems will present significant challenges to U.S. naval forces with the speed of their response to a Taiwan crisis,” Vice Adm. Lowell E. Jacoby, director of the Defense Intelligence Agency, told the Senate Armed Services Committee in testimony March 17.

Strategically, China’s military is also close to achieving an improved nuclear deterrent against the United States, according to foreign experts and specialists. The Type 094 nuclear missile submarine, launched last July to replace a trouble-prone Xia-class vessel, can carry 16 intercontinental ballistic missiles. China has also fielded the newly developed Julang-2 missile, which has a range of more than 5,000 miles and the ability to carry independently targeted warheads. The Type 094 will give China a survivable nuclear deterrent against the continental United States, according to “Modernizing China’s Nuclear Force,” a report released in March by the Committee on the Effectiveness of U.S. Strategy, which was established by the Center for Strategic and International Studies.

China has developed a “string of pearls” including the Type 094 submarine, a Mobile Missile Launch Platform and new satellites. China has also begun developing a long-range ballistic missile, the Dongfeng-31 solid-fuel missile, a land-based equivalent of the JL-2, according to Rumsfeld’s office. According to the Defense Department, China has been deploying in recent years to augment the approximately 20 Dongfeng-3 liquid-fuel missiles already in service, according to a report to Congress by the Office of the Secretary of Defense.

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China’s nuclear force has grown rapidly in recent years, with the number of warheads it is believed to possess increasing. According to a report to Congress by the Office of the Secretary of Defense, China has deployed a number of new and improved systems, including the DF-21D anti-ship ballistic missile and the DF-26 medium-range ballistic missile.

China has also developed a new generation of intercontinental ballistic missiles, including the DF-41, which is capable of carrying multiple warheads and can reach most parts of the world.

For U.S. military planners, the challenge is to deter China from using its nuclear weapons, which it could do with a single strike on the United States. To address this, the United States and its allies are developing new technologies and capabilities, including space-based weapons, to counter the threat.

I ask unanimous consent that this amendment be printed in the RECORD.

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

China Builds a Smaller, Stronger Military; Modernization Could Alter Regional Balance of Power, Raising Stakes for U.S.

(BY EDWARD CODY)

A top-to-bottom modernization is transforming the Chinese military, raising the stakes for U.S. forces long dominant in the Pacific.

Several programs to improve China’s armed forces could soon produce a stronger nuclear deterrent against the United States, soldiers better trained to use high-tech weaponry, longer-range cruise and anti-ship missiles for use in the waters around Taiwan, according to foreign specialists and U.S. officials.

In the past several weeks, President Bush and his senior aides, including Defense Secretary Donald H. Rumsfeld, Secretary of State Condoleezza Rice and Director of Central Intelligence Porter J. Goss, have expressed concern over the recent pace of China’s military progress and its effect on the regional balance of power.

Their comments suggested the modernization program might be on the brink of reaching one of its principal goals. For the last decade—long enough for aircraft carrier battle groups steamed in to show resolve during a moment of high tension over Taiwan in 1996—Chinese leaders have sought to field enough modern warships to ensure that any U.S. decision to intervene again would be painful and fraught with risk.

As far as is known, China’s military has not completed the weapon system that suddenly changes the equation in the Taiwan Strait or surrounding waters where Japanese and U.S. forces deploy, the specialists said. In other words, China is still in the midst of building up its military for more than two decades, seeking to push the low-tech, manpower-heavy force it calls a people’s army into the 21st-century world of computers, satellites and electronic weapons. Although results have been slow in coming, they added, several programs will come to fruition simultaneously in the next few years, promising a new level of firepower in one of the world’s most volatile regions.

“This is the harvest time,” said Lin Chong-pin, a former Taiwanese deputy defense minister, in the recent issue of the Chinese Military at the Foundation on International and Cross-Strait Studies in Taipei.

U.S. and Taiwanese military officials pointed out the rapid development of cruise and other antiship missiles designed to project the electronic defenses of U.S. vessels that might be dispatched to the Taiwan Strait in case of conflict.

The Chinese navy has taken delivery of two Russian-built Sovremenny-class guided missile destroyers and has six more on order, equipped with Sunburn missiles able to skim 4½ feet above the water at a speed of Mach 2.5 to evade radar. In addition, it has constructed the first two Jin-class diesel submarines that carry Club anti-ship missiles with a range of 145 miles.

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just a nationalist goal. The 13,500-square-
mile territory has also become a platform that China needs to protect southern sea-
lanes, through which pass 80 percent of its imports of fuel and other important for-
merly imported raw materials. It could serve as a base for Chi-
inese submarines to have unfettered access to the deep Pacific, according to Tsai, Taiwan's deput-
epreminister. "Taiwan for them now is a strategic must and no longer just a
sacred mission."

Traditionally, China's threat against Tai-
wan has been quite exaggerated as a Normandy-style assault by troops hitting the beaches. French, German, British and Mexican mili-
tary attaches were invited to observe such land-
mark exercises. The Chinese special forces went September.

Also in that vein, specialists noted, the Chi-
inese navy's fast-paced ship construction program includes landing vessels and troop transpor-
tes. Two giant transports that were seen under construction in Shanghai's ship-
yards a year ago, for instance, have dis-
appeared, presumably to the next stage of their preparation for deployment.

But U.S. and Taiwanese officials noted that China's forces had made their power-
Cty to move across the strait only one ar-
mored division—about 12,000 men with their vehicles. That would be enough to occupy an out-
lying Taiwanese island as a gesture, they said, but not to seize the main island.

Instead, Taiwanese officials said, if a con-
A little-discussed but key facet of China's military modernization has been a reduction in personnel and an intensive effort to better train and equip the soldiers who remain, par-

Premier Wen Jiabao told the National Peo-
ple's Congress last month that his govern-
ment would soon complete a 200,000–soldier

Mr. ALLEN. At a time when our military is already stretched thin, why would we want to eliminate one of the most effective methods of projecting our power and possibly opening up an area of vulnerability for the United States and our allies. The decision is clear: We must preserve at least a 12-carrier minimum for the safety of Americans and for the rest of the world, parties to conflicts. I strongly support this amendment and urge my colleagues to do the same. This amendment offers a lifeline to the USS John F. Kennedy, and I am pleased that my good partner, Senator War-
ner, was able to offer this commonsense approach to keeping the Kennedy viable as well as our deterrent and our ability to protect our interests in the western Pacific.

I yield purchase to the floor.

The PRESIDING OFFICER. The Sen-
ator from Mississippi.

AMENDMENT NO. 407, AS MODIFIED

Mr. COCHRAN. Mr. President, in the amendments we cleared and approved a moment ago, there were two modific-
tions which I neglected to send to the desk. The first was a modification of the Reid amendment. I ask unanimous
consent that the Reid amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 211, strike lines 3 through 8 and in-

S3883

SEC. 607. (a)(1) Using amounts made available under section 2507 of the Farm and Secu-

rity 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 "Secretary") acting through the Commissioner of Reclamation, shall pro-

viding not more than $850,000 to pay the State of Nevada's share of the costs for the Hun-

berg Project conveyance required—

(A) title VIII of the Clark County Con-

servation of Public Land and Natural Re-

sources Act of 2002 (116 Stat. 2016); and

(b)(1) Using amounts made available un-
der section 2507 of the Farm and Security Rural Invest-

ment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall pro-

viding not more than $70,000,000 to the Univer-

doing the Walker River Basin, Nevada; and

(B) to establish and administer an agricul-
tural and natural resources center, the mis-
sion of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conserva-
tion;

(ii) cooperative programs for environ-

vironmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adop-
tion marketing.

In acquiring land, water, and related inter-

ests under paragraph (1A), the University of Nevada shall make acquisitions that the University determines are the most ben-

eficial to—

(A) the establishment and operation of the agri-
cultural and natural resources research center authorized under paragraph (1B); and

(B) environmental restoration in the Walk-
er River Basin.

(2) In acquiring land, water, and related inter-

ests under paragraph (1A), the Secretary shall pro-

vide not more than $10,000,000 for a water

purification and purchase program for the Walker River Paiute Tribe.

Water acquired under paragraph (1) shall be

(A) acquired only from willing sellers; and

(B) designated to maximize water convey-
ae 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, acting through the Commissioner of Reclamation, shall pro-

viding not more than $10,000,000 for a water

purchasing contract for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be

(A) acquired only from willing sellers; and

(B) designated to maximize water convey-
ae to Walker Lake.
The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered to their names: [Quorum No. 2]

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. FRIST. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 99 Leg.]

Yeas—91

Akaka
Alexander
Allard
Bayh
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burk
Byrd
Canwell
Carper
Chafee
Chambliss
Chambers
Clinton
Coats
Coburn
Cooper
Cochran
Coles
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dole

Nays—7

Allen
Baucus
Boxer
Baucus
Biden
Byrd
Bingaman
Boxer
Byrd
Cantwell
Carper
Chambliss
Cochran
Collins
Cornyn
Craio
Dodd
Crapo

Doi

Not Voting—2

Durbin
Obama

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FRIST. I ask unanimous consent that at 5 p.m., Senator MIKULSKI have 5 minutes before the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object.

Mr. WARNER. Mr. President, as a co-sponsor, I would like to have 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is the Senator saying we are going to go immediately to cloture on the whole bill or the Mikulski amendment at 5 o’clock?

Mr. FRIST. For clarification, at 5 o’clock Senator MIKULSKI will be given 5 minutes before the cloture vote on her amendment.

Mrs. HUTCHISON. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, as a co-sponsor, may I have 2 minutes?

Mr. FRIST. Mr. President, I think that will be fine, with the leadership on both sides for 2 additional minutes, Senator MIKULSKI for 5 minutes, and Senator WARNER for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 100 Leg.]

Yeas—56

Alexander
Allen
Allison
Alito
Allen
Baucus
Bennett
Biden
Byrd
Brownback
Bunning
Burr
Burns
Byrd
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Crapo
Dayton
DeMint
DeWine
Dole

Nays—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chambliss
Chambers
Conrad
Cochran
Cowan
Dayton
Dodd

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

MOTION TO RECESS

Mr. FRIST. Mr. President, I modify the pending motion to recess until 5 p.m. I send the motion to the desk.

The PRESIDING OFFICER. The motion is so modified.

Mr. FRIST. Mr. President, I move, without objection, the amendment, as previously agreed to, is so modified.

Mr. COCHRAN. Mr. President, I make the same request with respect to modification of the amendment previously agreed to by the Senate on behalf of Senator BYRD.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 198, between lines 21 and 22, insert the following:

Mr. COCHRAN. I thank the Chair and yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:17 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:17 p.m. and reassembled standing the provisions of rule XXII, unanimous consent that the Senate stand in recess until 2:17 p.m.

The Senate will stand in recess until 2:17 p.m.

The yeas and nays are ordered and the Sergeant at Arms is instructed to request the attendance of any Senator who may be necessarily absent.

The PRESIDING OFFICER. The motion to recess until 5 o’clock, Senator MIKULSKI, is so agreed to, is so modified.
Mr. WARNER. Mr. President, I thank the Chair and my colleagues. This is one on which my colleagues and my colleague from Virginia, Sen- ator WARNER, of course. All of us are the only ones who will be eligible. They have to have been here in the last 3 years, worked in absolute compliance with the law, and returned back home to Mexico as required. So it is not new people who will be exempt. It is an em- ployment program for them and for us. The amendment is identical to the bipartisan bill I intro- duced in February called the Save Our Small and Seasonal Business Act. It is designed to be a temporary solution to the seasonal worker shortage that many coastal and resort States are fac- ing.

My amendment helps keep American jobs, keep American companies open, and yet retains control of our borders. Small and seasonal businesses all over our country are in crisis. They need seasonal workers before the summer can begin so they can survive. For years they relied on an H-2B visa pro- gram to meet their needs. The program allows businesses to hire temporary seasonal foreign workers with a mandated return to their home country when no other American workers are available. But this year they can’t get temporary labor. They have been fac- ing this for the last couple of years be- cause they have been shut out of the program because there is a cap and the cap is reached by the wintertime.

My amendment will help these em- ployers by doing three things. One, it temporarily exempts good actor work- ers from the H-2B cap so employers can apply for and employees who have already come back and forth to the United States. It protects against fraud, and it provides a fair and bal- anced allocation of the H-2B visas be- tween winter and summer people.

Let me be clear about my amend- ment. First, it protects American jobs. Second, it is a short-term remedy be- cause it is only a 2-year solution. What it does is exempt seasonal workers from the cap. That means there are no new workers. There are no new immi- grants. It helps more guest workers. It means people who have worked here before, who have played by the rules and gone back home, are
The PRESIDING OFFICER. On this vote, the yeas are 83, the nays are 17. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the amendment passed. Ms. MIKULSKI. Mr. President, I ask for the yeas and nays on my amendment. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered. Mr. ENZI. Mr. President, I rise today in support of the Save Our Small and Seasonal Business Act, offered as an amendment by Senator Mikulski to the Supplemental Appropriations Act. As many of my colleagues have stated, this amendment is very simple and straightforward. It is a temporary fix and does not reward illegal workers. It basically allows those workers who have followed the rules and returned home at the end of their season to come back to work in the United States and not count against the H-2B visa cap. As the situation stands right now, the many businesses across our Nation that use the visas are limited by how many can be approved each year. The demand of the visas is high and the Department of Labor has certified that there are positions that cannot be filled locally and the gap being for the entire fiscal year, those businesses with their season in the fall and winter have a better chance of getting the employees they need. In Wyoming, we have strong summer and winter seasons. Our winter businesses have been able to get their workers and yet see the impact of not having enough employees in the summer. The H-2B visas are used in Wyoming by small businesses in a variety of areas. I have heard from hotels, restaurants, tour companies, hunting companies, art and framing stores, and others. Many of these people depend on their return workers to keep their businesses going. While some may consider this unskilled labor, a return worker who knows the job and knows the customers is invaluable for a small business. This amendment is about helping our small and seasonal businesses survive another year—to give them a chance to stay in business until the Senate can fully debate needed changes in immigration reform. It does not provide amnesty or benefit those who have broken our laws. This type of visa actually puts such a high level of responsibility on the employers that we should consider putting some of these requirements on other types of visas. Under Federal law, the employer must certify that they cannot hire locally, the employer must guarantee wages, and the employer must guarantee eligibility for the worker. The amendment we are considering today keeps that built-in protection. It also increases fraud protection to help us ensure that those who have the visa applications approved are those who need the employees. The support we have already heard for this amendment is evidence of the wide impact of the H-2B visa program. Businesses from mountain States and coastal States are in need of help. We have an opportunity to take positive action in support of the small businesses that drive our economy. I encourage all my colleagues to support the Mikulski amendment. AMENDMENT NO. 555 Mr. KYL. Mr. President, I have an amendment at the desk, No. 555. The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows: The Senator from Arizona [Mr. KYL] proposes an amendment numbered 555. Mr. KYL. 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 the criteria for excluding certain H-2B workers from the numerical limitations under section 214(g)(1)(B) of the Immigration and Nationality Act) On page 2, strike lines 5 through 11, and insert the following: "(B)(A) Subject to subparagraphs (B) and (C), an alien counted toward the numerical limitations of paragraph (1)(B) during any 1 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) A petition referred to in subparagraph (A) shall include, with respect to an alien— "(i) the full name of the alien; and "(ii) a certification to the Department of Homeland Security that the alien is a returning worker. "(C) An H-2B visa for a returning worker shall be approved only if the name of the individual on the petition is contained by— "(i) the Department of State; or "(ii) if the alien is visa exempt, the Department of Homeland Security." The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 555) was agreed to. Mr. KYL. Mr. President, 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. VOTE ON AMENDMENT NO. 387, AS AMENDED Ms. MIKULSKI. Mr. President, there is no further debate on the amendment. I yield all of my time and, therefore, request a vote on my amendment, as amended. The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended. The yeas and nays have been ordered. The clerk will call the roll. The legislative clerk called the roll. The result was announced—yeas 94, nays 6, as follows:
The amendment (No. 376), as amended, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. ENSIGN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The major leader is recognized.

Mr. PRIST. Mr. President, the next vote will be on invoking cloture on the bill. I hope we will, in fact, invoke cloture. If cloture is not invoked to- 

Mrs. HUTCHISON. Mr. President, this is an amendment to recapture unused EB-3 visas. Senator SCHUMER, Senator KENNEDY and I have worked on this to try to assure that 50 percent of the unused EB-3 visas help resolve our serious nursing shortage. It is very important. These visas go out of existence and cannot be recaptured except by an act of Congress. They have already been authorized. We need to recapture the unused visas from 2001 to 2004, add to the number of nurses we can bring to our country, as well as the EB-3 engineers and educated workforce that are waiting in the wings.

Mr. President, I ask all of my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleagues from Texas. This is an amendment we have worked on together. As she said, it fills some badly needed positions without increasing the overall number. I hope we will support it.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Texas.

The Senator from Georgia.

AMENDMENT NO. 418, AS FURTHER MODIFIED

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC–130J AIRCRAFT

S. 1122. No funds in this Act may be obligated or expended to terminate the joint-service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of enactment of this Act.

Mr. CHAMBLISS. I thank the Chair.

Mr. PRYOR. Mr. President, I stand with Senator SAXBY CHAMBLISS and strongly support his amendment to ensure the C–130J contracts continue without interruption this year.

The C–130J has quickly been adapted to play vital and unique roles in our national defense efforts. Today, both U.S. and Allied C–130Js are performing operational missions in CENTCOM with a mission capable rate of over 90 percent. The J performs missions in Iraq in 1 day that require the C–130E or H model 2 days. It is equally critical for relief operations like the Tsunami effort in Asia, where lives were spared due to the C–130Js quick capabilities.

I have made several visits to the Little Rock Air Force Base, the premier training facility for the C–130J, and I have seen first-hand the new features and capabilities. The C–130Js climb higher and faster, fly at higher cruise speeds, take off and lands in a shorter distance, and is easier, safer and cheaper to operate than its predecessor.

The military officials and troops who I have talked with want to continue using C–130Js and they depend on the model’s new features on the ground. Cutting production of the C–130Js would not only deny our soldiers the cutting-edge technology they need on today’s battlefield, but it would leave the Air Force and Marine Corps with an aging and far less capable tactical airlift.

As I am sure my colleagues are aware, the Air Force recently grounded or severely restricted the flying of 90 C–130s due to old age. Eighty-four of these carriers are assigned to the Active-Duty Air Force. By further terminating the contracts for C–130Js, we would be leaving the Air Force unable to meet its future tactical requirements. The Air Force will be 118 aircraft short of requirement and the Marine Corps will be short 18 aircraft.

Terminating the C–130J contracts is short-sighted from a tactical standpoint, but it is also foolish from a financial standpoint. Terminating the current contracts could cost taxpayers more than the cost of building new carriers. Liability fees for ending the C–130J multiyear contracts are estimated at $1.3 billion for the Air Force and $0.3 billion for the Marine Corps for a total of $1.6 billion. This estimate does not...
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include the increased costs of maintaining aging planes.

I urge my colleagues to support this amendment and help ensure our military has the equipment it needs to effectively and safely carry out their missions, now and in the future.

AMENDMENT NO. 379, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I ask for a voice vote on my amendment. We need to dispose of amendment No. 379, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 379), as modified, was agreed to.

Mrs. HUTCHISON. I move to reconsider the vote.

Mr. STEVENS. I move to lay down that motion on the table.

The motion to lay on that table was agreed to.

CLOSURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOSURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 67, H.R. 1268.

Bill Frist, Mitch McConnell, Elizabeth Dole, Olympia Snowe, Norm Coleman, Pat Roberts, Orrin Hatch, John Cornyn, Craig Thomas, Michael Enzi, Larry E. Craig, Trent Lott, George V. Voinovich, Bob Bennett, Pete Domenici, Richard Burr, James Talent.

The PRESIDING OFFICER. The amendment (No. 379), as modified, was agreed to. The PRESIDING OFFICER. The Senate from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 516

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arizona for the bicameral courtesy. I call up amendment No. 516 and ask that it be stated and temporarily laid aside.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The amendment is as follows:

The amount for “Diplomatic and Consular Programs” under chapter 2 of title II shall be $557,700,000.

IMMIGRATION AND CUSTOMS ENFORCEMENT SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, $389,613,000, of which $128,000,000, to remain available until September 30, 2006, shall be available for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, and of which the Assistant Secretary for Immigration and Customs Enforcement shall transfer (1) $179,745,000, to Customs and Border Protection, to remain available until September 30, 2006, for “SALARIES AND EXPENSES” for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border; (2) $57,938,000, to Customs and Border Protection, to remain available until expended, for “CONSTRUCTION”; (3) $10,471,000, to the Federal Law Enforcement Training Center, to remain available until September 30, 2006, for “SALARIES AND EXPENSES”; and (4) $3,959,000, to the Federal Law Enforcement Training Center, to remain available until expended, for “ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES”, for the provision of training at the Border Patrol Academy.

Mr. BYRD. Mr. President, I ask that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am obviously always glad to accommodate the most distinguished Member of the Senate from West Virginia.

The emergency supplemental appropriations for Defense, the global war on terror, and tsunami relief for 2005 provides critical resources for our men and women in uniform and for our foremost foreign policy priorities. While I recognize the importance of its timely passage, I am concerned it includes a number of provisions that do not constitute “emergency spending.” These items clearly should be debated and funded under the regular order.

Before I go further, I would like to congratulate the distinguished Chairman of the Appropriations Committee for the hard work that he and his staff have done in putting together this very vital appropriations measure to pursue the war on terror and, of course, the war in Afghanistan and Iraq.

We ought to ask a basic question: What is the purpose of emergency appropriations? It is twofold. First, it is supposed to provide funding for critical expenditures beyond what was anticipated in the President’s annual budget request; second, it is supposed to pay for vital priorities that simply cannot wait until next year’s budget.

What are the common elements? The unexpected and the time sensitive. Simply put, the purpose of the supplemental appropriations bill is to fund our country’s urgent and unanticipated needs.

We have to consider this in the context of a couple of comments that have been made recently. At a conference in February, David Walker, the Comptroller General of the United States, said:

If we are to continue on our present path, we’ll see pressure for deep spending cuts or dramatic tax increases. GAO’s long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress:
(The dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims.

He said it falls on Congress. The head of the U.S. Government’s chief watchdog agency and the Nation’s chief economist agree we are in real trouble. We are in a war on terrorism. Here is a radical idea for my colleagues to consider to help secure our economic future: Stop using scarce Federal dollars, taxpayers’ dollars to fund unnecessary earmarks and all the other frivolous projects that do nothing to provide for the greater good of our Nation.

A case in point of what this legislation is and should be all about is the urgent need of Balad Air Base in Iraq, a U.S. Army camp on the very front line of the war on terror. The soldiers and service members who live there have nicked named it “Mortaritaville” because of the frequency of insurgent mortar attacks. Balad is quickly becoming a hub for military operations in the Sunni Triangle and is home to more than 20,000 U.S. troops. As a result, the camp’s infrastructure is becoming overwhelmed and requires more than $63 million to remain functional and effective. This camp needs emergency funding.

The Department of Defense listed construction of a hospital facility, command and control buildings, and related equipment among its emergency needs for Balad, and appropriators in the House and Senate have rightly agreed to such funding. The DOD and our appropriators recognize these improvements to Balad are critical to our efforts in Iraq and the broader war on terror, and this is why we have an emergency supplemental appropriations bill to fund these types of needs.

The bill includes many important provisions such as increased death benefits, military operational costs, recapitalization of equipment, and research and development associated with the war on terror to which I lend my strongest support.

For example, this bill provides $1.285 billion in assistance to the security forces of Afghanistan; $5.7 billion for the security forces of Iraq; $227 million for counternarcotics activities in Afghanistan and Pakistan; and $44 million for humanitarian assistance in Darfur, Sudan.

The foreign affairs provisions of this bill are remarkably free of pork. As one who supports ensuring that taxpayers’ dollars are spent properly, I commend my colleagues and the chairman for their restraint in this area. Unfortunately, due to its “must pass” nature, a number of unauthorized provisions and funding not requested by the President and unrelated to defense or foreign affairs have been included in this bill, and literally hundreds of amendments have been attempted to be added to the bill. The administration’s proposed definition of an emergency requirement is “a necessary expenditure that is sudden, urgent, unforeseen, and not permanent.” We should do everything in our power to ensure this bill passes. But we must also ensure every item in it is of a true emergency nature.

It is evident that some of my colleagues find the purpose of supplemental appropriations and continue to seek to add spending to this bill that should be addressed as part of the regular appropriations process. In fact, there is an unmistakable trend turning emergency supplemental appropriations into a second budget request. Many programs that should be in the baseline budget are somehow finding their way into this supplemental. We must not allow this trend to continue—we must not allow the supplemental to become a de facto second budget. Let’s look at a few examples of the kind of non-emergency spending that has found its way into this bill.

There is $10 million for the University of Hawaii Library. I was unaware that there were 29,000 U.S. troops stationed in Afghanistan. It was also being fought at the University of Hawaii’s library.

There is $24 million to the Forest Service to repair damage to national forest infrastructure, an unnecessary expense—but one that should be funded through the proper process, beginning with an authorization and testimony by officials from the Forest Service in a public hearing.

There is $23 million to the Capitol Police for the construction of an “offsite delivery facility.” I’ll be the first one around here to praise the U.S. Capitol police for the good work that they do—I am sure this facility is a high priority to them. But, again, let’s provide funding for the proper process—public hearings, authorizing legislation, and the proper appropriations vehicle.

There is language in the bill to increase authorized funds for a fish hatchery in Fort Peck, Montana, from $20 million to $25 million. I would like to know how a “multi-species fish hatchery” is related to the War on Terror. Does the author of such language believe the hatchet fish may enlist in our armed forces? Was it requested by the President as an emergency need? No. Is this authorization related to the stated purpose of the supplemental? No.

The bill also includes language authorizing the Secretary of the Interior to analyze the viability of a sanctuary for the Rio Grande Silvery Minnow in the Middle Rio Grande Valley. The Rio Grande Silvery Minnow is a stout silvery minnow with moderately small eyes and a small mouth. Adults minnows are about 3.5 inches in total length. Perhaps the silvery minnow could enlist with the Fort Peck, MT fish. I will await the Secretary’s study.

The bill includes $500 million for a study of wind energy in North Dakota and South Dakota. I believe we can all agree that this expenditure earmark is not urgent. In fact, I am not certain there is a need for a study as the wind energy potential in the Dakotas is well established. We must know what it has to do with fighting the war on terror or aiding the tsunami disaster victims.

Another $500,000 is earmarked to the University of Nevada Reno for the Oral History of the Negotiated Settlement project. I ask my colleagues, how is this useful to the war on terror? How is this an emergency need?

No bill would be complete without several projects for the State of Alaska. The bill includes language that addresses how the Agriculture Department pays dairy farmers in Alaska. I certainly don’t wish to neglect our Alaskan dairy farmers, but I cannot support prioritizing their payment issues over the needs of our soldiers.

The bill includes $175,000 not requested by the President to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware. That particular vessel has been at the bottom of the Christina River for more than a decade, is not endangering commercial traffic on the river, and I am sure Congress can wait to fund its removal during the regular appropriations process.

Another $55 million is earmarked for a wastewater treatment facility in Desoto County, MS. How exactly does this help the troops?

Not only do I have concerns with some of the provisions the Appropriations Committee included in this bill, as I have highlighted, I am very troubled by some of the amendments being proposed. I am well aware that many of my colleagues—and their staffs—have expressed frustrations with the amendments to their amendments. I have, and will continue, to object to adopting certain amendments by unanimous consent. This is an “emergency supplemental”—it’s not a Christmas wish list. I frankly do not understand the managers willingness to agree to some of these proposals. Some of them sound reasonable, but who can be sure? That is why the President’s request is so important—it is thought out and designed to carry out specific objectives that are urgent and necessary. I do not particularly care for being in the position of “bad cop”, but so be it. But I cannot agree to unanimous approval of amendments that appear more wishful and urgent. For example, $1 million for lobster disease in the northeast. I do not doubt that this may be a problem but it simply does not belong on an emergency supplemental appropriations bill to fund the war. There is legislation regarding State regulation of hunting and fishing. I support this concept, and would have sponsored a provision to reaffirm the authority of State governments to regulate their own hunting and fishing programs. But the simple
fact remains that tacking this legislation onto a war-time emergency supplemental is both inappropriate and unnecessary. We can and should pass this bill through the regular legislative process. Today I will be joining with my friend from Oklahoma, Senator Coburn, in offering amendments to strike the most egregious, unnecessary, and non-emergency provisions from this bill. I urge my colleagues to support our efforts to keep this important legislation free from non-essential, pork barrel projects.

Let me close by noting that I appreciate the hard work of the Appropriations Committee and their staff. Field visits were conducted in Afghanistan and the Middle East as the Committee diligently researched the DoD’s many requests pursuant to the war on terror. But I am concerned about their decision to include unnecessary, non-emergency earmarks in this bill and the accompanying report. When considering military construction projects like those in Balad, Iraq, consideration was taken to determine whether the project was truly of an emergency nature. Why did the Committee not apply the same level of scrutiny to the fish hatchery in Montana?

As I mentioned, tomorrow I have a couple of amendments we will be seeking votes on. I hope we realize we have a looming deficit, a trade deficit, and unanticipated expenses concerning the war in Iraq. There was one high-ranking Defense official at the time of the beginning of the war in Iraq who said the oil revenues would pay for United States expenses. We are now up to close to $300 billion and we are not yet able to reduce our forces. I think we ought to take into consideration the fact that we will have continued, very significant expenses associated with the conflict in Iraq and in Afghanistan before we begin appropriating the amount appropriated by the DoD’s many requests pursuant to the war on terror. Tomorrow I will be joining with my friend from Nevada, Senator Reid, on behalf of Senator Biden, I rise to offer amendment No. 440 on behalf of Senator Specter and Senator Carper to fully protect the health of our military personnel. Let me explain. The military regularly protects our troops by vaccinating them. There are vaccines to keep personnel healthy in the face of common illnesses like the flu and to protect them from biological warfare agents such as anthrax or smallpox.

These force protection measures are important. Equally important is the recognition that not every person will react positively to the vaccine. Vaccines, even those generally considered safe, are still drugs put into the body. There will always be a small number of personnel whose bodies have an adverse reaction to a safe vaccine. In order to deal with this, the Vaccine Health Care Centers Network was established in 2001. The centers act as a specialized medical unit that can provide the best possible care. They require personnel with expertise in complex and specialized medical cases. They need a local, base physician to develop the expertise needed to provide the best treatment. They managed over 600 cases of problems that might develop, the population of adults regularly vaccinated with anything more than the flu vaccine is small.

In the military, the reverse is true. Military personnel are regularly vaccinated for travel, for threats relating to their theater of operation, and for threats that may develop, the population of adults regularly vaccinated with anything more than the flu vaccine is small.

For this reason, it is essential that the military have a centralized place to capture the information on those who experience severe problems. In particular, because serious problems are rare, it is difficult for the average base physician to develop the expertise needed to provide the best treatment.

Let me give my colleagues more specifics.

In fiscal year 2004, the centers responded to over 120,000 emails and other consultation inquiries. They managed over 600 cases of preventable adverse events, which means literally over 58,000 pages of medical information reviewed. These are very complex and specialized medical cases. They require personnel with expertise and the ability to dedicate significant time.

Since beginning operations in 2001, the total number of cases managed through fiscal year 2004 is 1,341. Without the centers, that is over one third of our military personnel who would not have gotten the care they deserve. The best possible care we can provide. In addition to providing care and consultation services, the centers developed clinical guidelines and aids for physicians and nurses giving vaccines. Over 28,000 immunization “tool kits” were distributed. They have also provided ongoing education at bases through lectures and training.

In addition, they have worked collaboratively with outside researchers to get the best possible analysis of the trends in cases that they do see. This has all been done by an extremely small staff—only one full-time employee and three nurse practitioners and five educators and support staff at each of the four regional facilities. The value and medical services they have provided to the entire military family—Army, Navy, Air Force, Marines, and Coast Guard—has been extraordinary.

Military personnel and their dependents are more confident in the vaccination programs and reports from those who do suffer adverse reactions are extremely positive regarding the care they now get from the centers.

Why do we need to provide $6 million on the emergency supplemental for this? The reason is simple. The centers are in danger of losing part of their funding this fiscal year. They are currently funded with Army global war on terror money.

I applaud the Army for recognizing the need for the centers and providing funds from the global war on terror money. But the Army is only the executive agent for what is a defense-wide service. They cannot be the sole funder. I am very concerned that the funding this year is being redirected because other services have not budgeted for the centers’ work. I am very concerned that the fact that 46 percent of their cases were related to Air Force, Navy, and Marines personnel.

Clearly, force protection in this time of war demands a good vaccination program. Existing clinical guidelines must include quality care for those who suffer adverse events in every service, not just the Army.
In addition, as we look ahead, we all anticipate a growing need for biological defenses, particularly vaccines. We established Project BioShield for that very reason.

At this point, there is no civilian equivalent to the Vaccine Health Care Centers Network, but I think we are going to need to consider setting up some collaborative effort to take advantage of their knowledge should a mass civilian inoculation become necessary.

Let me also remind my colleagues that the Department of Defense asked for and received an emergency authority from the Department of Health and Human Services to begin administering the anthrax vaccine. I will not go into the technicalities of that, but it basically allows the military to vaccinate personnel with informed consent. If the Department believes it is an emergency to resume that vaccine, how can we consider preserving the Vaccine Health Care Centers any less?

At the end of the day, this is very simple. We simply cannot mandate that military personnel take these vaccines and then abandon them when a problem arises.

This is the same as providing a prosthesis to someone who loses a limb.

If military personnel are injured because of their service to this Nation, we have an absolute obligation to give them the best possible care. Anything less is unconscionable.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we have some requests to make on behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle. We understand there has been a review undertaken to try to ensure that the amendments which are going to be presented to the Senate are consistent with the vote taken on cloture earlier in the day.

AMENDMENT NO. 343

With that information, I call up amendment No. 343 on behalf of Mr. Pryor regarding Camp Joseph T. Robinson.

Mr. COCHRAN. Mr. President, I call up amendment No. 343 on behalf of Mr. DURBIN regarding Iraqi security services.

Mr. President, I also send a modification of the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 343), as modified, is as follows:

On page 168, between lines 8 and 9, insert the following:

SEC. 6047. The United States releases to the State of Arkansas the revocatory interest described in sections 2 and 3 of the Act entitled "An Act authorizing the transfer of part of Camp Robinson to the State of Arkansas," approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate described in sections 2, 3, 25, and 26, township 3 north, range 12 west, Pulaski County, Arkansas.

Mr. COCHRAN. Mr. President, I know of no request for debate on the amendment.

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the amendment.

The amendment (No. 343) was agreed to.

Mr. COCHRAN. Mr. President, 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.

AMENDMENT NO. 427, AS MODIFIED

Mr. COCHRAN. Mr. President, I call up amendment No. 427 on behalf of Mr. DUBIN regarding Iraqi security services.

Mr. President, I also send a modification of the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 427), as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

REPORTS ON IRAQI SECURITY FORCES

SEC. 1122. Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit an unclassified report to Congress, which may include a classified annex, that includes a description of the following:

(1) The extent to which funding appropriated by this Act will be used to train and equip capable and effectively led Iraqi security service and promote stability and security in Iraq.

(2) The estimated strength of the Iraqi insurgency and the extent to which it is composed of non-Iraqis or other groups, and any changes over the previous 90-day period.

(3) A description of all militias operating in Iraq, including their number, size, strength, military effectiveness, leadership, sources of external support, sources of internal support, estimated types and numbers of equipment and armaments in their possession, legal status, and the status of efforts to disarm, demobilize, and reintegrate each militia.

(4) The extent to which recruiting, training, and equipping goals and standards for Iraqi security forces are being met, including the number of Iraqis recruited and trained for the army, air force, navy, and other Ministry of Defense forces, police, and highway patrol of Iraq, and all other Ministry of Interior forces, and the extent to which personal and unit equipment requirements have been met.

(5) A description of the criteria for assessing the capabilities and readiness of Iraqi security forces.

(6) An evaluation of the operational readiness status of Iraqi military forces and special police, including the type, number, size, and organizational structure of Iraqi battalions that are operating in Iraq.

(a) capable of conducting counterinsurgency operations independently;

(b) capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers; or

(c) not ready to conduct counterinsurgency operations.

(7) The extent to which funding appropriated by this Act will be used to train capable, well-equipped, and effectively led Iraqi forces, and the evaluation of Iraqi police forces, including—

(A) the number of police recruits that have received classroom instruction and the duration of such instruction;

(B) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(C) the number of candidates screened by the Iraqi Police Screening Service screening project, the number of candidates derived from other entry procedures, and the overall success rates of those groups of candidates;

(D) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(E) a description of the field training program, including the number, the planned number, and nationality of international police trainers;

(F) the number of police present for duty;

(G) data related to attrition rates; and

(H) a description of the training that Iraqi police forces have received regarding human rights and the rule of law.

(8) The estimated total number of Iraqi battalions needed for conducting counterinsurgency operations and the estimated total number of Iraqi security forces personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(9) The extent to which funding appropriated by this Act will be used to train Iraqi security forces in counterinsurgency operations, and the estimated total number of Iraqi security forces personnel expected to be trained, equipped, and capable of participating in counterinsurgency operations by the end of 2005 and of 2006.

(10) An assessment of the effectiveness of the chain of command of the Iraqi military.

(11) An analysis of the effectiveness of Coalition mentors liaising with Iraqi police forces, including the number and nationality of Coalition mentors and advisers working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(12) A list of countries of the North Atlantic Treaty Organisation ("NATO") participating in the NATO Operations independently and the estimated total number expected to be capable of conducting counterinsurgency operations with United States or Coalition mentors and enablers by the end of 2005 and of 2006.

(13) An assessment of the effectiveness of the chain of command of the Iraqi military.

The number and nationality of Coalition mentors and advisors working with Iraqi security forces as of the date of the report, plans for decreasing or increasing the number of such mentors and advisers, and a description of their activities.

(14) A list of countries participating in training Iraqi security forces outside the NATO training mission and the number of troops from each country dedicated to the mission.

(15) For any country, which made an offer to provide forces for training that has not been accepted, an explanation of the reasons why the offer was not accepted.

(16) For offers to provide forces for training that have been accepted by the Iraqi government, a report on the status of such training efforts, including the estimated total number of troops involved by country and the number of Iraqi security forces trained.
The motion to lay on the table was agreed to.

AMENDMENT NO. 561

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. Reid of Nevada—technical in nature—and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

"The Senator from Mississippi, [Mr. COCHRAN], for Mr. Reid of Nevada, proposes an amendment numbered 561.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (Purpose: To modify the provision relating to agricultural and natural resource conservation activities in the Walker River Basin, Nevada.) In section 6017(b)(1)(A), insert "appurtenant to the land" after "water".

Mr. COCHRAN. Mr. President, I know of no requests for debate. The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 561) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 560

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. Shelby, regarding judicial security enhancements.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

"The Senator from Mississippi, [Mr. COCHRAN], for Mr. Shelby, for Mr. Kennedy, for himself, Mr. Boxer and Mr. Obama, proposes an amendment numbered 560.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (Purpose: To clarify funding for judicial security enhancements) On page 184, line 18, after "$11,935,000," insert: "for increased judicial security outside of courthouse facilities, including priority consideration of home intrusion detection systems in the homes of federal judges."

Mr. COCHRAN. I know of no requests for debate on the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 427), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 399

Mr. COCHRAN. I call up amendment numbered 399, on behalf of Mr. Dorgan, regarding the independent counsel investigation of Henry Cisneros.

I know of no requests for debate on the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 399) was agreed to.

Mr. COCHRAN. I send to the desk another amendment on behalf of Mr. Reid of Nevada that is technical in nature. I ask that it be reported.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 560) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 562

Mr. COCHRAN. My final request is to send to the desk another amendment on behalf of Mr. Reid of Nevada that is technical in nature. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

"The Senator from Mississippi [Mr. COCHRAN], for Mr. Reid of Nevada, proposes an amendment numbered 562.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (Purpose: To modify the provision relating to agricultural and natural resource conservation activities in the Walker River Basin, Nevada.) In section 6017(b)(1)(A), insert "appurtenant to the land" after "water".

Mr. COCHRAN. Mr. President, I know of no requests for debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 562) was agreed to.

Mr. COCHRAN. I send to the desk an amendment on behalf of Mr. Shelby, regarding judicial security enhancements.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

"The Senator from Mississippi [Mr. COCHRAN], for Mr. Reid of Nevada, proposes an amendment numbered 561.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (Purpose: To modify the provision relating to agricultural and natural resource conservation activities in the Walker River Basin, Nevada.) In section 6017(b)(1)(A), insert "appurtenant to the land" after "water".

Mr. COCHRAN. Mr. President, I know of no requests for debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 561) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The motion to lay on the table was agreed to.

THE PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator, my friend from Vermont. He is a valuable member of the Appropriations Committee.

Mr. President, I am pleased with the progress we have been able to make on this supplemental appropriations bill. The Senate is working hard to ensure we consider requests that have merit which should be included in this bill.

The focus of the bill, as everyone realizes, though, is on assisting and providing for our troops, the Department of Defense facilities that are located in Iraq, trying to help ensure we protect the forces we have there, giving them what they need to bring these operations to a successful conclusion. We have made tremendous progress there, as well as in Afghanistan, bringing an opportunity for peace and freedom to the people of both of those countries. It is quite amazing to see the success that has been achieved in that direction, as those nations continue to work to build the infrastructure for democracy and a growing economy.

Our troops still need additional assistance, and that is why it is important for us to respond in a positive way to the requests of the administration to fund those needs and provide that assistance which will play such a critical role in their success.

The funds appropriated in this bill will provide support, pay in allowances. It will provide additional equipment, more modern and more effective equipment, so that the chances of success will be enhanced.

We do not want to drag out this supplemental unnecessarily. We need to complete action on the bill so we can move forward with this legislation. The Senate is working hard to complete action on the bill so we can go to conference with our counterpart committee, the Appropriations Committee in the House, and work out differences between the two bodies on this bill.

We do not want to delay this supplemental. We do not want to endanger our troops and our national interests in those areas of the world and here at home by unnecessary delay.

We appreciate the cooperation of all Senators. I thank everyone who has played a part today in our success in moving forward with this legislation.

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. 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.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a
period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator Kennedy and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each day I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last March, 29-year-old Jason Gage, who is gay, was beaten and stabbed in his home. According to police reports, his attacker acknowledged striking Gage twice with a bottle in the head and stabbing him with a piece of glass. There have been reports that the victim was targeted solely because of his sexual orientation.

I believe that the government’s first duty is to defend its citizens, to defend them against forms that are out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

SPECIALIST SASCHA STRUBLE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Hanna, SPC Struble, whom years old died on April 6 in a military helicopter crash near Ghazni city, 80 miles southwest of Kabul. With his entire life before him, Sascha risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Two years out of high school, Sascha had joined the Army in the hopes of getting the education he needed to become a paragliding, even working in the Army Judge Advocate General unit while stationed in Afghanistan. A teacher who went to Afghanistan and trained with a piece of glass, I can’t think of a time that he wasn’t smiling.”

Sascha was killed while serving his country.

Mr. LEAHY. Mr. President, I am pleased that today the House has voted to pass the Family Entertainment and Copyright Act of 2005, clearing the way for the President to sign this important and urgent bill into law. That signature will mark the completion of our unfinished intellectual property business from last year. As we work to enact an equally ambitious intellectual property agenda in this new Congress, we have started off on the right foot.

The Family Entertainment and Copyright Act will help protect the rights of our innovators and support efforts at preserving America’s cultural heritage. Title I of the bill, the “Artists’ Rights and Theft Prevention Act,” will criminalize a growing scourge: the use of camcorders to surreptitiously swipe movies from the big screen. Theft of intellectual property does not involve stealing something tangible, but the economic impact is very real. According to the Motion Picture Association of America, our film industries lose $3 billion annually due to piracy. We already know of high profile examples of movies shown up in other parts of the world on DVD while still in theaters in the United States. Theft of intellectual property is a global problem, and we need to ensure that our own IP house is in order even as we coordinate efforts at stronger international enforcement.

I have long been an enthusiastic proponent of the Library of Congress’s efforts at protecting and promoting our nation’s rich and diverse film heritage. Thus, I am particularly pleased that the bill passed today also contains the National Film Preservation Act, legislation that I sponsored in the last Congress to continue support for this extraordinary project. It reauthorizes a Library of Congress program dedicated to preserving precisely those types of films most in need of archival protection: “orphaned” works that do not enjoy the protection of the major studios. The movies saved include culturally significant silent-era films, experimental works, avant-garde works. The Act will allow the Library of Congress to continue its important work, and to provide libraries, museums, and archives in the country and making key works available to researchers and the public. We know that more than 50 percent of the works made before 1950 have disintegrated and that only 10 percent of films made before 1929 still exist. Once these works are gone, they are lost to history forever. The Librarian of Congress, James Billington, has referred to our film heritage as “America’s living past.” The National Film Preservation Act will help ensure that this past is accessible into the future and will help us to fight for the protection of our intellectual property at home and abroad.

I am also glad that a small but significant component of the bill is the Preservation of Orphan Works Act, which corrects a drafting error in the Sonny Bono Copyright Term Extension Act. Correction of this error will allow libraries to create copies of orphan works, copyrighted materials that are in the last 20 years of their copyright term, are no longer commercially available, and are available at a reasonable price. The last provision in the bill is the Family Movie Act, which ensures that in-home viewing of movies can be done as families see fit.

I noted when this bill was introduced that while I might well have drafted specific components of this package differently, the Family Entertainment and Copyright Act was built around collegiality and compromise, both across the aisle and between chambers. As a result, we have produced good law with a lot of the wisdom and enjoyment. I thank the bill’s co-sponsors, Senators Hatch, Cornyn, Fein- stein, and Alexander, for all of their
hard work. I also wish to thank in particular Chairmen SENSENIBRENNER, Congresswoman SMITH, and Congressman BERMAN, without whose efforts this bill could not become law.

EQUAL PAY DAY

Mr. CORZINE. Mr. President, I stand today to speak in support of an issue that affects every woman in this country—the fight for equal pay for men and women.

Today is Equal Pay Day—the day when the wages paid to American women “catch up” to the wages paid to men last year. So, essentially, women have to work almost four months more than men who do the same job just to bring home the same amount of income.

Until the early 1960s, newspapers published separate want-ads for men and women, and some newspapers even printed the same job in the male and female listings, but with separate pay scales. Full-time working women would earn on average between 59-64 cents for every dollar their male counterparts earned doing the exact same job.

Finally, in 1963, Congress passed the Equal Pay Act making it illegal to pay women lower rates for the same job strictly on the basis of gender. Since its passage, we have made significant progress in the fight for equal pay. Women now earn 76 cents for every dollar.

While the Paycheck Fairness Act addresses pay inequity among men and women for performing the same job, the Fair Pay Act addresses the problem of women not getting paid what they are worth for doing jobs that may be different than those performed by men, but are equivalent. The Fair Pay Act requires employers to provide equal pay for jobs that are comparable in skill, effort, responsibility, and working conditions.

This issue is not just one of equality among men and women—it is a bread-and-butter issue for working families. According to the National Women’s Law Center, if working women earned the same as men, those who work the same number of hours; have the same education, age, and union status; and live in the same region of the country, their annual family incomes would rise by $1,000 and poverty rates would be cut in half. As we all know, family earnings determine where and how a family lives, the education of their children, the family’s health care, their standard of living, including whether workers have a pension on which to retire comfortably.

Today, we teach our young girls that they can be anything they want to be, that no job or career is out of their reach. What we do not tell our young girls is that once they get that job and start their career, they will make 24 percent less than their fellow female coworker even if they do the same exact work just as hard. And if they are women of color, they will make 34 percent less. If the U.S. Department of Labor thinks that this is acceptable, then we may as well tell those young girls to stop dreaming because their work will not be valued as much as their brother’s will.

I think we should continue to encourage women who are in the workforce and young girls who will be in the workforce that working hard will pay off. That is why I am proud to be a co-sponsor of two bills that will move this country to the right path forward: Senator CLINTON’s Paycheck Fairness Act and Senator HARKIN’s Fair Pay Act.

The Paycheck Fairness Act will enforce equal pay laws for Federal contractors and prohibit employers from retaliating against employees who share salary information with their coworkers. This bill also addresses what is known as the “negotiation gap.” Women are eight times less likely to negotiate their salaries than men. In order to empower women to negotiate their salaries, the Paycheck Fairness Act creates a training program to help women strengthen their negotiation skills. Finally, the bill requires the Department of Labor to continue collecting and disseminating information about women workers.

While the Paycheck Fairness Act addresses pay inequity among men and women for performing the same job, the Fair Pay Act addresses the problem of women not getting paid what they are worth for doing jobs that may be different than those performed by men, but are equivalent. The Fair Pay Act requires employers to provide equal pay for jobs that are comparable in skill, effort, responsibility, and working conditions.

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Since the beginning of my tenure, I have been very involved with this issue. When the administration wanted to eliminate the Equal Pay Initiative within the Department of Labor’s Women’s Bureau, I wrote a letter to President Bush expressing my outrage at the Department’s actions. In addition, I was also a co-sponsor of the Civil Rights Act of 2004, which included the Paycheck Fairness Act.

I commend my colleagues, Senator CLINTON and Senator HARKIN, for their commitment to the equal pay issue. I am proud to join them as co-sponsors of the Paycheck Fairness Act and the Fair Pay Act. I believe that these two pieces of legislation will help put an end to the pay disparity between men and women and bring us closer to the year when we celebrate Equal Pay Day on January 1.

CONGRATULATING EL CAMINO REAL HIGH SCHOOL

• Mrs. FEINSTEIN. Mr. President, I rise today to congratulate El Camino Real High School of Woodland Hills, CA, on winning the prestigious U.S. Academic Decathlon for a second year in a row an astonishing achievement for all the students, teachers, and parents involved.

Each year, the U.S. Academic Decathlon brings together some of our Nation’s brightest students for 2 days of competition in a broad range of subjects including mathematics, literature, economics, art, science, and music. I am very proud to report that
in the 24 years of this competition, schools representing California have finished first or second every year except for one.

El Camino’s tremendous victory represents an incredible fourth title in the last 8 years. Only one other school in the 35-year history of this competition, El Camino is the first school to win back-to-back championships since their fellow Californians, Palo Alto High School, achieved that distinction in 1982 and 1983.

The week’s experience is the result of much effort and sacrifice. These amazingly dedicated students have given up spring and summer vacations and spent up to 10 hours a day preparing. Their hard work and commitment have certainly paid great dividends.

El Camino finished first with 49,009 points out of a possible 60,000, beating their nearest opponent by 723, and were led by their top scorer—Laura Descher.

It is important to note that the Academic Decathlon is set up to award versatility and breadth of knowledge, requiring each student to prepare for all the various academic events. This means that each student has developed a diverse and robust degree of scholarship rather than just specializing in one given topic.

The nine students whose effort and determination have made our State so proud are Micah Roth, Benjamin Farahmand, Jihwan Kim, Lindsey Cohen, Laura Descher, Lindsey Gibbs, Sean Follmer, Brian Hwang, and Kevin Rosenberg.

A great deal of the credit must be given to the dedicated coaches—Christian Cerone and Lissia Gregorio. This whole experience has certainly been just as memorable for them as it has for their students.

Of course, no congratulations would be complete without mentioning the contributions of the parents and family members, who have been there each step of the way to cheer these young people on and support them in their lofty goals.

Again, I congratulate El Camino Real High School on this great achievement and wish all the students involved continued success in whatever they decide to do. You have made your State, your parents, your school, and your Senator very proud.

KEN MURPHEE

Mr. COCHRAN. Mr. President, I am pleased to commend Ken Murphee of Tunica for his distinguished service as president of Delta Council this year.

Delta Council is an economic development organization representing the agriculture and business leadership of the region to focus on the challenges which face the economy and society of the Delta.

Ken Murphee has served splendidly as president of Delta Council; and with his distinguished record of public service as a county administrator for DeSoto County during its early years as a growth-area for the Memphis metropolitan region, and more recently, as the county administrator for Tunica County, MS, he has provided careful and responsible leadership for orderly economic growth. The growth of the local tax base in Tunica County, MS, resulting from the rapid expansion of the gaming industry in that area, has been characterized as a model and a standard by which other rural growth areas might be expected to grow in the future.

Ken Murphee has been a strong proponent of Delta Council’s programs of education and health care during the past year. His history of involvement in transportation improvements has served Delta Council well this year.

The progress being registered on the development of Interstate 69 and the U.S. Highway 82—Mississippi River Bridge has also benefited from his leadership.

Ken has coordinated the activities of Delta Council in a way which has brought consensus throughout the region in areas such as flood control, industrial development, higher education funding, and transportation improvements.

Ken has been a leader in his community, and as he concludes his year as president of Delta Council I congratulate him for the contributions which he has made to this special region of our country. I look forward to his future contributions in improving the quality of life for our citizens in the Mississippi Delta.

NEW MEXICO TECH

Mr. DOMENICI. Mr. President, I rise today to congratulate the New Mexico Institute of Mining and Technology in Socorro, NM for the school’s No. 2 ranking in The Princeton Review’s 2006 edition of the Nation’s “best value” colleges. New Mexico Tech is an outstanding school and I am very proud of what they have accomplished. This is a well deserved recognition for excellent work being done by the faculty and students at this fine university.

The New Mexico Institute of Mining and Technology, known to New Mexicans as New Mexico Tech, was originally founded in 1889 as the New Mexico School of Mines. At that time the Territorial Legislature, wanting to boost New Mexico’s economy, decided to establish a School of Mines to train young mining engineers. Silver and lead ores taken from the nearby Magdalena Mountains were processed nearby and the new School of Mines would allow young mining engineers to train near the eventual site of their work.

The New Mexico School of Mines opened with one building, two professors, and seven students.

Over the years, their mission has expanded to say the least. Today the enrollment at this university exceeds 1,800 students from different parts of the country and the world. New Mexico Tech is an outstanding research university, recognized for their excellence
as a leader in many areas of research, including homeland security, hydrology, astrophysics, atmospheric physics, geophysics, information technology, geosciences, energetic materials engineering, and petroleum recovery. Students come to Tech for its outstanding academic reputation, hands-on laboratory learning experiences, opportunities for employment in one of their many research facilities, and its beautiful Southernmost setting.

In the past, I have strongly supported New Mexico Tech and have helped them secure defense and homeland security appropriations funding. In return, they have provided the country with first-rate research giving American defense and homeland security planners’ better technology to protect military personnel and civilians from attack. They have been on the forefront of homeland security research, antiterrorism efforts, and bringing new job opportunities to the central New Mexico region. New Mexico Tech’s school of technology and record of success has made it easy for me to convince my colleagues that New Mexico Tech is a good investment.

I am very pleased with the dynamic coming out of this wonderful school and I encourage them to keep up the good work.

I ask unanimous consent that a copy of a article entitled ‘New Mexico Tech Second on ‘Best Value’’ be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the ABQJOURNAL, Apr. 18, 2005]

NEW MEXICO TECH SECOND ON ‘BEST VALUE’ COLLEGE LIST

SOCORRO—The New Mexico Institute of Mining and Technology ranked second on The Princeton Review’s 2006 edition of the nation’s “best value” colleges.

New Mexico Tech’s Web site listed its annual tuition and fees for tuition as $8,750 for 2004–2005 academic year, which includes $3,280 a year in tuition and fees. Earlier this month, Tech’s regents approved a 10 percent tuition increase.

Bates College in Lewiston, Maine, whose tuition, room and board costs roughly $40,000 a year, was ranked the nation’s “best value” college. Bates, fifth in the previous year’s rankings, topped the new “America’s Best Value Colleges,” which hits the bookstores Tuesday.

The Princeton Review said all 81 schools on the list offer outstanding academics, generous financial aid packages and relatively low costs.

“It’s always pleasing to be recognized and acknowledged for the good work of our faculty as well as our students,” Dan Lopez, president of Tech, said Monday. “It does give us a certain amount of presence in the higher education community.”

And, he said, it makes people aware of a small school in a more remote area.

“We really have an outstanding school,” Lopez said. “We’re very proud of it.”

George Hencz, a spokesman for Tech, said it’s the first time the school has cracked the top 10, although it has been on the overall “best value” list for years.

New Mexico Tech primarily focuses on science and engineering at both the undergraduate and graduate level.

The rest of the 2006 top 10: Brigham Young University of Provo, Utah; Hendrix College, Conway, Ark.; University of California-Los Angeles; New College of Florida, Sarasota; City University of New York-Brooklyn College; City University of New York-Queens College; William Jewell College, Liberty, Mo.; and Hanover College, Hanover, Ind.

The Princeton Review said its rankings were based on more than 30 factors in four categories: academics, tuition, financial aid and student borrowing.

“Bottom line: the 81 schools that met our criteria for this book are all great college education deals,” said Robert Franek, the company’s vice president for publishing.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:07 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 276h, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman and Ms. HARRIS of Florida, Vice Chairman.

The message also announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. SIMMONS of Connecticut.

The message also announced that pursuant to 10 U.S.C. 4355(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Military Academy: Mrs. KELLY of New York and Mr. TAYLOR of North Carolina.

The message also announced that pursuant to 46 U.S.C. 1285(b), and the order of the House of January 4, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Merchant Marine Academy: Mr. King of New York.

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-1811. A communication from the Secretary of Transportation, transmitting, pursuant to a rule entitled “Emergency Amendment to the Outer Continental Shelf Oil and Gas Leasing Program—Catastrophic Rail Investment Reform Act” received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1812. A communication from the Commandant, United States Coast Guard, transmitting, pursuant to law, a report of proposed legislation entitled “Coast Guard Authorization Act of 2005” received on April 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC-1813. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to a rule entitled “Food Stamp Program Electronic Benefits Transfer (EBT) Systems” (RIN0584-AC75) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1814. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tuberculosis in Cattle and Bison; State and Zone Designations; California” (APHIS Docket No. 05–199–91) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1815. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Mill in the Northeast Marketing Area—Final Order” (DA–02–01; AO–14–A70) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1816. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tuberculosis in Cattle and Bison; State and Zone Designations; California” (APHIS Docket No. 05–199–91) received on April 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1817. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Filing Plus Bond Partnership Lookthrough II” (Rev. Proc. 2005–20) received on April 18, 2005; to the Committee on Finance.

EC-1818. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Withholding Exemption” (RIN0584–AC37) received on April 18, 2005; to the Committee on Finance.

EC-1819. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Classification of Certain Foreign Entities” (RIN1545–BE21) (TD 9196) received on April 18, 2005; to the Committee on Finance.

EC-1820. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Tax Exempt Bond Partnership Lookthrough II” (Rev. Proc. 2005–20) received on April 18, 2005; to the Committee on Finance.

EC-1821. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Electronic Benefit Transfer (EBT) Systems” (RIN0584–AC75) received on April 18, 2005; to the Committee on Finance.
EC-1821. A communication from the President and Chairman, Export-Import Bank of the United States, submitting, pursuant to law, a report of the Bank’s operations for Fiscal Year 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-1822. A communication from the Deputy Secretary, Office of the Chief Accountant, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled “Rule 4-01(a)(3) of Regulation S-X, Form, Order, and Terminology (RIN3235-AA24) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-1823. A communication from the General Counsel, Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report of a rule entitled “Corporate Governance, Final Amendments” (RIN3235-AJ92) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-1824. A communication from the Assistant Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, a report of a rule entitled “First-Time Application of International Financial Reporting Standards” (RIN3235-AI92) received on April 18, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-1825. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of the authorization to wear the insignia of the grade of rear admiral (lower half); to the Committee on Armed Services.

EC-1826. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of officers authorized to wear the insignia of the next higher grade; to the Committee on Armed Services.

EC-1827. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-1828. A communication from the Secretary of the Air Force, transmitting, pursuant to law, the report of an Average Procurement Unit Cost (APUC) breach; to the Committee on Armed Services.

EC-1829. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, a report on Conversion of Defense Department Commercial Activity to a Government most Efficient Organization; to the Committee on Armed Services.

EC-1830. A communication from the General Counsel of the Department of Defense, transmitting, the report of legislative proposals; to the Committee on Armed Services.

EC-1831. A communication from the Assistant Secretary of the Army (Acquisition, Logistic, and Technology), Department of the Army, transmitting, pursuant to law, a report entitled “Annual Status Report on the Disposal of Chemical Weapons and Materiel for Fiscal Year 2004”; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 50. A bill to authorize and strengthen the National Oceanic and Atmospheric Administration’s tsunami detection, forecast, warning, and mitigation program, and for other purposes (Rept. No. 109–59).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 361. A bill to develop and maintain an integrated system of ocean and coastal observations for the Nation’s coasts, oceans and Great Lakes, improve warnings of tsunamis and other natural hazards, enhance homeland security, support maritime operations, and for other purposes (Rept. No. 109–60).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 838. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BARKIN (for himself, Mrs. MURRAY, Mr. KENNEDY, Ms. MIKULSKI, Mr. DURBIN, Mr. LEAHY, Mr. AKAKA, Mr. FEINGOLD, Mrs. LINCOLN, Mr. CORZINE, and Mr. KERRY):

S. 940. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on the basis of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Mr. Ried, Mr. KENNEDY, Mr. HARKIN, Mr. DURBIN, Ms. LANDRIEU, Mr. CORZINE, Mr. LEAHY, Mr. SCHUMER, and Ms. STABENOW):

S. 981. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. DURBIN, Mr. SCHUMER, Mr. DODD, Mr. BINGMAN, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. BYRD, Mr. INOUYE, Mr. RUDEN, Mr. LEAHY, Mr. SARANAS, Mr. LEVIN, Mr. KERRY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. AKAKA, Mr. DORGAN, Mrs. BOXER, Mr. FEINGOLD, Mr. WYDEN, Ms. LANDRIEU, Mr. BAYH, Mr. CARPER, Ms. STABE- NOW, Ms. CANTWELL, Mr. CORZINI, Mr. DAYTON, Mr. LAUTENBERG, Mr. LAMAR, Mr. SALAZAR, and Mr. REED):

S. 842. A bill to amend the National Labor Relations Act to establish an efficient system to enable unions to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mr. DODD):

S. 843. A bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. REID):

S. 844. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women’s health care; read the first time.

By Mr. REID:

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt; read the first time.

By Mr. DURBIN:

S. 846. A bill to provide fair wages for American workers; read the first time.

By Ms. STABENOW (for herself and Mr. SCHUMER):

S. 847. A bill to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits; read the first time.

By Mr. BINGMAN:

S. 848. A bill to improve education, and for other purposes; read the first time.

By Mr. ALLEN (for himself, Mr. WYDEN, Mr. LEAHY, Mr. BOXER, Mr. SMITH, Mr. WARNER, and Mr. MCCAIN):

S. 849. A bill to make the moratorium on Internet access taxes permanent and discriminatory taxes on electronic commerce permanent; to the Committee on Commerce, Science, and Transportation.

By Mr. PRIFT (for himself and Mr. LUGAR):

S. 850. A bill to establish the Global Health Corps, and for other purposes; to the Committee on Foreign Relations.

By Mr. CONRAD (for himself, Mr. REID, Mr. FEINGOLD, Ms. MIKULSKI, Ms. STABENOW, Mr. INOUYE, Mr. LEAHY, Mr. SALAZAR, Mr. BINGMAN, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. DAYTON, Mr. DODD, Mrs. CLINTON, Mrs. BOXER, Mr. DORGAN, Mr. KOHL, Mr. LEVIN, and Mr. NELSON of Florida):

S. 851. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility; read the first time.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. DWYNE, Mr. BAU- CUS, and Mr. VONNOYCH):

S. 852. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. CRAPO, and Mr. SMITE):

S. J. Res. 14. A joint resolution providing for the recognition of Jerusalem as the undivided capital of Israel before the United States Government and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself, Mr. DORGAN, and Mr. DODD):

S. J. Res. 15. A joint resolution to acknowledge a long history of official deprecations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:
By Mrs. DOLE (for herself and Mr. BURR):
S. Res. 113. A resolution expressing support for the International Home Furnishings Market in High Point, North Carolina; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS
S. 173
At the request of Mr. DeWINE, the name of the Senator from Ohio (Mr. Voinovich) was added as a cosponsor of S. 173, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immuno-suppressive drugs furnished to beneficiaries under the Medicare program that have received an organ transplant.

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

At the request of Ms. SNOWE, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

At the request of Mr. INHOFE, the name of the Senator from Vermont (Mr. Jeffords) was added as a cosponsor of S. 260, a bill to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

At the request of Mr. CRAIG, the name of the Senator from Florida (Mr. Nelson) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

At the request of Mr. GRAHAM, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 327, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for nonregular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

At the request of Mr. COLEMAN, the name of the Senator from California (Ms. Boxer) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

At the request of Mr. BIDEN, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 378, a bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person on board a passenger vessel, and for other purposes.

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of S. 391, a bill to amend the Social Security Act of 1935 to prohibit certain State election administration officials from actively participating in electoral campaigns.

At the request of Mr. KYL, the name of the Senator from North Carolina (Mr. Burr) and the Senator from Oregon (Mr. Smith) were added as cosponsors of S. 420, a bill to make the repeal of the estate tax permanent.

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mrs. Boxer) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers, to prevent fraudulent dealings against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Ms. LANDRIEU, the name of the Senator from Kentucky (Mr. Bunning) and the Senator from Mississippi (Mr. Thad Cochran) were added as cosponsors of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers, to prevent fraudulent dealings against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. Bingaman) 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.

At the request of Mr. MURKOWSKI, her name was added as a cosponsor of S. 649, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to make volunteer members of the Civil Air Patrol eligible for Public Safety Officer death benefits.

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. Salazar) was added as a cosponsor of S. 806, a bill to amend title 38, United States Code, to increase the traumatic injury protection rider to servicemembers insured under section 1676(a)(1) of such title.

At the request of Mr. THOMAS, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of S. 815, a bill to amend the Internal Revenue Code of 1986 to allow a 15-year applicable recovery period for depreciation of certain electric transmission property.

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. Coburn), the Senator from Kansas (Mr. Roberts) and the Senator from Texas (Mr. Cornyn) were added as cosponsors of S. 830, a bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production.

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of S. 337, a bill to amend title XVIII of the Social Security Act to provide equal rights for men and women.

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. Reed), the Senator from Oklahoma (Mr. Coburn) and the Senator from Alabama (Mr. Sessions) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against women.

At the request of Mr. ROBERTS and the Senator from Kansas (Mr. Brownback), the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. Res. 64, a resolution expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment.

AMENDMENT NO. 383
At the request of Mr. KERRY, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of amendment No. 338 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. 379
At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. Bingaman) was added as a cosponsor of amendment No. 379 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. 499

At the request of Mr. Jeffords, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of amendment No. 499 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. 418

At the request of Mr. Roberts, his name was added as a cosponsor of amendment No. 418 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. 427

At the request of Mr. Durbin, the name of the Senator from Minnesota (Mr. Dayton) was added as a cosponsor of amendment No. 427 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. 441

At the request of Mr. Specter, his name was added as a cosponsor of amendment No. 441 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. 502

At the request of Mr. Dodd, the name of the Senator from Oklahoma (Mr. Inhofe) was added as a cosponsor of amendment No. 502 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. 504

At the request of Mrs. Clinton, the names of the Senator from Washington (Mrs. Murray), the Senator from New Jersey (Mr. Lautenberg), the Senator from New York (Mr. Schumer), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of amendment No. 504 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

MONDAY, APRIL 18, 2005

By Mr. INHOFE:

S. 830. A bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 830

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

SECTION 1. DEFINITION RELATING TO OIL AND GAS EXPLORATION AND PRODUCTION.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

'(24) OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TREATMENT OPERATION, OR TRANSMISSION.—'(A) IN GENERAL.—The term 'oil and gas exploration, production, processing, treatment operation, or transmission' includes all field activities or operations associated with oil or gas exploration, production, or processing, or oil or gas treatment operations or transmission facilities.

'B) INCLUSIONS.—The term 'oil and gas exploration, production, processing, treatment operation, or transmission' includes activities necessary to prepare a site for oil or gas drilling and for the movement and placement of drilling equipment; whether or not the field activities or operations may be considered to be construction activities.'

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 838. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, today I am introducing a measure that will begin to restore democracy for dairy farmers throughout the Nation.

When dairy farmers across the country voted on a referendum six years ago, perhaps the most significant change in dairy policy in sixty years, they didn’t actually get to vote. Instead, their dairy marketing cooperatives cast their votes for them.

This procedure is called “bloc voting” and it is used all the time. Basically, a Cooperative’s Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. It may serve the interest of time, but it doesn’t always serve the interests of their producer-owner-members.

While I think that bloc voting can be a useful tool in some circumstances, I have serious concerns about its use in every circumstance. Farmers in Wisconsin and other States tell me that they do not agree with their cooperative’s view on every vote. Yet, they have no way to preserve their right to make their single vote count.

I have learned from farmers and officials at the U.S. Department of Agriculture (USDA) that if a cooperative bloc votes, individual members have no opportunity to voice opinions separately. That seems unfair when you consider what significant issues may be at stake. Co-ops and their individual members do not always have identical interests. Considering our nation’s longstanding commitment to freedom of expression, our Federal rules should allow farmers to express a differing opinion from their co-ops, if they choose to.

The Democracy for Dairy Producers Act of 2005 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot to opt to vote separately from any group.

This will in no way slow down the process at USDA: implementation of any rule or regulation would proceed on schedule. Also, I do not expect that this would often change the final outcome in dairy policy in sixty years; co-ops would still cast votes for their members who do not exercise their right to vote individually. And to the extent that co-ops...
represent farmers’ interests, in the majority of cases farmers are likely to vote the same as their co-ops. But whether they join the co-ops or not in voting for or against a measure, farmers deserve the right to vote according to their own political beliefs.

I urge my colleagues to return the democratic process to America’s farmers, by supporting the Democracy for Dairy Producers Act.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 2. MODIFIED BLOC VOTING.

(a) IN GENERAL.—Notwithstanding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with related reforms under section 118 of the Agricultural Market Transition Act (7 U.S.C. 7223), if a cooperative association of milk producers elects to hold a vote on behalf of its members as authorized by that paragraph, the cooperative association shall provide to each producer, on behalf of which the cooperative association is expressing approval or disapproval, written notice containing—

(1) a description of the questions presented in the referendum;

(2) a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership; and

(3) information regarding the procedures by which a producer may cast an individual ballot.

(b) TABULATION OF BALLOTS.—At the time at which ballots cast by a producer under subsection (a) are tabulated by the Secretary of Agriculture, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of stockholders in, or under contract with, the cooperative association.

By Mr. HARKIN (for himself, Mrs. MURRAY, Mr. KENNEDY, Mrs. MIKULSKI, Mr. DURBIN, Mrs. LEAHY, Mr. AKAKA, Mr. FEINGOLD, Mrs. LINCOLN, Mr. CORZINE, and Mr. KERRY):

S. 840 A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

April 19th is Equal Pay Day. Even though the Equal Pay Act was passed more than 40 years ago, women working full time, year-round, still make only 76 cents for every dollar that a man makes. On April 19th, four days after tax returns for 2004 are due, U.S. women will finally reach the earnings mark that their male counterparts achieved by December 31st of last year. April 19th is Equal Pay Day because the 60 million working women in this country are suffering economically because equal pay is still not a reality.

We’ve got millions of families struggling to make ends meet. The White House leadership believes a $750 billion tax cut for the rich is the solution, a permanent one.

I disagree. One way we can put more money in the pockets of working families is to pay women what they’re worth. Nearly 40 years after the Equal Pay Act became law, women are still paid only 75 cents for every dollar a man earns.

Working women at all income and education levels are affected by the wage gap. In 2003, the GAO found that the pay gap continues to affect women in management and that, for these women, the pay gap has actually widened since 1996.

Regardless of education, the impact is the same. These women work as hard as men, but have less money to pay the bills, to put food on the table, or to save for their retirement or their child’s education. That is simply wrong and it must end. We must close the wage gap once and for all.

First, we need to do a better job by enforcing and strengthening the penalties for women being paid equal pay for equal work. That’s why I support the Paycheck Fairness Act, sponsored by Senator CLINTON and Congresswoman DELAURO.

However, an even more important part of discrimination against women in the work place is the historic pattern of undervaluing and underpaying so-called “women’s jobs.”

Millions of women today working in female-dominated social work—teachers, child care workers and nurses—are “equivalent” in skills, effort, responsibility and working conditions to similar jobs dominated by men, but these women aren’t paid the same as men.

That’s what the Fair Pay Act—that Congresswoman NORTON and I are reintroducing today—would address. Unfairly low pay in jobs dominated by women is un-American, it is discriminatory and our bill would make it illegal.

Twenty States have “fair pay” laws and policies in place for their employees, including my State of Iowa. And Iowa had a Republican legislature and Governor when this bill passed into law, so ending wage discrimination against women is a nonpartisan issue.

Some say we don’t need any more laws; market forces will take care of the wage gap. If market forces relied on market forces we would have never passed the Equal Pay Act, the Civil Rights Act, the Family Medical Leave Act or the Americans with Disabilities Act.

I first introduced the Fair Pay Act in 1996 after the Iowa Business and Professional Women alerted me to this problem. And as long as I’m in the U.S. Senate, I will continue to fight to pass this important legislation so we can end wage discrimination against women once and for all.

By Mrs. CLINTON (for herself, Mr. Reid, Mr. Kennedy, Mr. Harkin, Mr. Duren, Ms. Landrieu, Mr. Corzine, Mr. Leary, Mr. Schumer, and Ms. Stabenow):

S. 841. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to discuss the Paycheck Fairness Act, which I am introducing along with my colleagues Senators Reid, Kennedy, Harkin, Duren, Landrieu, Corzine, Leary, Schumer, and Stabenow. I also want to acknowledge Senator Daschle for his longstanding support of this critical issue and Congresswoman Delauro for being a champion in the House of Representatives.

This morning I met Brenda Wholey, a plaintiff in the Wal-Mart class action sex discrimination lawsuit. Brenda came all the way from Philadelphia to share her story with us. She worked hard, put in her time, and watched as time in and time out, men were promoted above her and compensated with higher salaries.

Too often when we talk about equal pay we talk about numbers—the 76 cents on the dollar that women earn, the 54 cents that Hispanic women earn. We talk about GAO reports and violations and litigation. But what this is really about is women like Brenda. Women who get up every morning to go to work so they can provide for their families. Women who work hard and play by the rules and want to build a better life for their children. Women like Brenda who just want to be treated fairly.

The Equal Pay Act was an important step forward for women. It gave women a real chance to be full, equal participants in the workforce and to earn equal pay for equal work.

And since the Equal Pay Act was enacted, women have shuttered so many barriers. And for young women entering the workforce today, the sky is the limit. But we still have work to do to truly level the playing field.

That means making sure that employers treat men and women equally in the workplace. It also means giving women the tools they need to acquire the pay and recognition they deserve.

That is why I am pleased to be introducing the Paycheck Fairness Act—a bill that will build on the promise of the Equal Pay Act and help close the pay gap.
The Paycheck Fairness Act has three main components.

First, it prevents pay discrimination before it starts. By helping women strengthen their negotiation skills and providing outreach and technical assistance to employers to ensure they fairly evaluate and pay their employees, the Paycheck Fairness Act gives employers the tools they need to level the playing field between men and women.

Second, the Paycheck Fairness Act creates strong penalties to punish those who do violate the act. By strengthening the penalties for employers who violate the Equal Pay Act, this bill sends a strong message—Equal Pay is a matter to be taken seriously.

And finally, the Paycheck Fairness Act ensures that the Federal Government, which should be a model employer when it comes to enforcing Federal employment laws, uses every tool in its toolbox to ensure that women are paid the same amount as men for doing the same jobs.

From ending the Clinton administration's Equal Pay Matters Initiative, to halting the collection of data on women workers, to removing important information about the wage gap from the Department of Labor's website, to tying its own hands in enforcing the Equal Pay Act among Federal contractors, the Bush administration has taken this country backwards in the fight for equal pay. You might say the Bush administration has taken one giant step backwards for womenkind.

The Paycheck Fairness Act would stop the Bush administration's rollbacks and make sure, once again, that our Federal Government sets a standard of excellence for making sure women are paid the same as men.

There is no question that we've come a long way since the Equal Pay Act became law 50 years ago. And women have earned every step they have gained in the journey toward equality.

But what has made this country great is that we have never accepted that less discrimination is "good enough." The history of our country is one of constant striving to live up to the ideal of our founding. And the most basic element of our American character is the belief that all of us deserve to be treated as equals.

Our country's history has faced lots of difficult questions, questions on which reasonable people could disagree. Equal pay is not one of those hard questions. It is common sense, it is basic fairness. It is simply right.

And frankly, when it comes to equal pay, we still have a lot of work to do. Women's compensation still lags behind men's in nearly every occupation and every field. As the American Association of University Women study being unveiled today shows us, this fact is especially true for women of color.

Young, old, Democrat, Republican, male, female—there is universal recognition that a wage gap exists. Well, the Paycheck Fairness Act will do something about it.

This issue is about our mothers, our sisters, our daughters. It's about women being able to earn an equal wage for equal work. It is in all of our interests to support women to help them support their families and to live with the dignity and respect accorded to fully engaged members of the workforce.

Equality works for all of us. Now is the time to make sure that we all work towards equality.

By Mr. KENNEDY (for himself, Mr. SPECKER, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mr. DODD, Mr. BINGMAN, Mr. HARKIN, Ms. MUKILSEKI, Mrs. MURRAY, Mrs. CLINTON, Mr. BYRD, Mr. INOUYE, Mr. BIDEN, Mr. LEAHY, Mr. SARBAZES, Ms. LEVIN, Mr. KERRY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. AKAKA, Ms. HARRIS, Mr. BOXER, Mr. FEINGOLD, Mr. WYDEN, Ms. LANDRIEU, Mr. BAYH, Mr. CARPER, Ms. STHABOW, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, Mr. SASKAR, and Mr. REED):

S. 842. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to protect the right of workers to choose a union, to prevent employers from using anti-union tactics during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY, Mr. President, in recognition of our country's longstanding commitment to basic fairness for the Nation's hard-working men and women, I am introducing the Employee Free Choice Act. I want to thank my distinguished colleague, Senator ARLEN SPECTER, for also supporting this important legislation to protect workers' right to free association.

The essence of the American dream is the ability to provide a better life for yourself and your family. At the very heart of that dream are a good job, a good workplace, good health care, and a good retirement. Unfortunately, too many families today find that dream increasingly beyond their reach in today's global economy. Vast numbers of citizens suddenly find themselves in a race against workers in other countries. Whoever is willing to work for the lowest pay gets the work. That is why the labor movement is more important today than ever. It's not the profits of business that are being shipped overseas. They're higher than ever. It is the jobs of American workers that are being outsourced, and they're being outsourced in droves. Hardworking Americans are paying a high price for this intense new era of worldwide competition. Our economy is not benefitting. Business profits are up 70 percent since 2001, but wages have been stagnant.

Labor unions have always led the fight for working families—for the 8-hour day and the 40-hour week—for overtime protections—for a fair minimum wage—for a safe and healthy workplace—for decent health insurance and a decent pension. Every working American deserves those protections. But when they try to organize, employers typically respond with threats and intimidation. They hire union-busting firms and force employees to listen to anti-union speeches. Companies close down departments—or even entire operations—to avoid negotiating a union contract.

These are not isolated abuses. Every year, over 20,000 workers are illegally fired or discriminated against for exercising their labor rights. In at least one quarter of all organizing efforts, an employer illegally fires a worker for supporting the union. For these anti-union employers, union-busting is just another cost of doing business. America's workers deserve better, and our democracy deserves better.

That is why I am introducing the Employee Free Choice Act, to protect the right of workers to choose a union. This bill seeks to level the playing field for employees attempting to organize a union or negotiate their first contract. It requires employers to come to the table to talk. And it puts real teeth in existing protections by strengthening the penalties for discriminating against workers who support a union.

These protections are long overdue. For too long, Congress has failed to act against the anti-labor, anti-worker, anti-union tactics now far too prevalent in the workplace. This bill is an important step towards ensuring that millions of American workers and their families can do better in today's economy. I urge my colleagues to join me in this fight to support the Employee Free Choice Act.

By Mr. REID:

S. 845. A bill to amend title 10, United States Code, to permit retired servicemembers who have a service-connected disability to receive disability compensation and either retired pay or Combat-Related Special Compensation and to eliminate the phase-in period with respect to such concurrent receipt; read the first time. Mr. REID, Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 845

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) For more than 100 years before 1999, all disabled military retirees were required to fund their own veterans' disability compensation by forgoing $1 of earned retired pay for each $1 received in veterans' disability compensation.
(2) Since 1999, Congress has enacted legislation every year to progressively expand eligibility criteria for relief of the retired pay disability offset and further reduce the burden of financial sacrifice on disabled military retirees.

(3) Absent adequate funding to eliminate the sacrifice for all disabled retirees, Congress has given initial priority to easing financial inequities for the most severely disabled and for combat-disabled retirees.

(4) In the interest of maximizing eligibility within cost constraints, Congress effectively has authorized full concurrent receipt for all qualifying retirees with 100 percent disability ratings and all with combat-related disabilities. Adapting previous provisions, the Act eliminates the disability offset to retired pay over 10 years for retired members with noncombat-related, service-connected disability ratings of 50 percent to 80 percent.

(5) In pursuing these good-faith efforts, Congress acknowledges the regrettable necessity of creating new thresholds of eligibility that understandably are disappointing to disabled retirees who fall short of meeting those new thresholds.

(6) Congress is not content with the status quo.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that military retired pay earned by service and sacrifice in defense of the Nation should not be reduced because a military retiree is also eligible for veterans' disability compensation awarded for service-connected disability.

SEC. 3. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN ADDITIONAL MILITARY RETIREEs WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO THOSE SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Section 1414(a) of title 10, United States Code, is amended to read as follows:

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

"(1) In general.—Subject to subsection (b), an individual who is a qualified retiree for any month is entitled to be paid both retired pay and veterans' disability compensation for that month without regard to sections 5304 and 5308 of title 38.

"(2) Qualified retirees.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is retired pay, other than a retired pay and veterans' disability compensation for that month without regard to sections 5304 and 5308 of title 38.

"(B) is entitled for that month to veterans' compensation.

"(C) be entitled for that month to veterans' compensation.

"(b) RULES.—Section 1414(c) of title 10, United States Code, is amended by striking "(c) ELIGIBILITY FOR TERRITORIAL RETIREES.—Section 1413a(c) of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "—who—"

"(1) is entitled to retired pay, other than a member retired under chapter 61 of this title who has less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 1272 of this title; and

"(2) has a combat-related disability.

"(c) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

"(1) CLERICAL AMENDMENT.—The heading for subsection (a)(1) of such title is amended to read as follows:

"(2) SPECIAL RULE FOR RETIREES.—Section 1414(b)(1) of such title is amended—

"(A) by striking "SPECIAL RULES" and all that follows and inserting "SPECIAL RULE FOR

"(B) $6.55 an hour, beginning 12 months after that 60th day; and

"(C) $7.25 an hour, beginning 24 months after that 60th day; "

"(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

"(e) SENSE OF THE SENATE REGARDING MULTIEmployER PENSION PLANS.—

SECTION 121. SENSE OF THE SENATE REGARDING MULTIEmployER PENSION PLANS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Multiemployer pension plans have been a major force in the delivery of employee benefits to active and retired American workers and their dependents for over half a century.

(2) There are approximately 1,700 multiemployer defined benefit pension plans in which approximately 9,700,000 workers and retirees participate.

(3) Three-quarters of the approximately 60,000 to 65,000 employers that participate in multiemployer plans have fewer than 100 employees.

(4) Multiemployer pension plans allow for greater access and affordability for smaller employers and pension portability for their employees as they move from one job to another, and permit workers to earn pension benefits where they might otherwise not be able to do so.

(5) The 2000-2002 drop in the stock market and decline in equity values has affected all investors, including multiemployer plans.

(6) The decline in value sustained by multiemployer defined benefit pension plans have threatened the stability of this private sector pension system.

(7) Participating employers could face onerous excise taxes and other penalties as a result of the serious, adverse financial impact due to these market losses.

(8) In 2004, the United States Senate recognized the severity of this situation and passed by an overwhelmingly, large bipartisan margin of 96 to 9 temporary relief provisions for single and multiemployer defined benefit pension plans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) expresses its strong support for multiemployer defined benefit pension plans;

(2) recognizes the importance of an environment in which beneficiaries can continue their vital role in providing benefits to working men and women;
SEC. 271. DEFINITIONS.

"(a) Agency.—The term 'Agency' means the United States Agency for International Development.

"(b) Candidate.—The term 'candidate' means an individual described in section 273(d).

"(c) Corps.—Except as otherwise provided, the term 'Corps' means the Global Health Corps established under section 273(a).

"(d) Department.—Except as otherwise provided, the term 'Department' means the Department of Health and Human Services.

"(e) Office.—The term 'Office' means the Office of the Global Health Corps established under section 272(a).

"(f) Participant.—The term 'participant' means a member of the Corps as described in section 272(a).

SEC. 272. OFFICE OF THE GLOBAL HEALTH CORPS.

"(a) Office of the Global Health Corps.—

"(1) Establishment.—There is established within the Department an Office of the Global Health Corps to assist in improving the health and development of communities in foreign countries and regions through the provision of health care personnel, items, and related services.

"(2) Purposes.—The purposes of the Office are—

"(A) to expand the availability of health care personnel, items, and related services to improve the health and development of communities in select foreign countries and regions;

"(B) to promote United States public diplomacy in such foreign countries and regions by matching the needs of such communities with the services available from the Global Health Corps;

"(C) to provide for the effective management and administration of the Global Health Corps; and

"(D) to coordinate, unify, strengthen, and focus the provision of health care personnel, items, and related services to foreign countries and regions by departments, agencies, including a physician, nurse, dentist, veterinarian, or other professional determined to be appropriate by the Director; or

"(ii) is a resident of the United States, at the discretion of the Secretary;

"(B) is not an employee of the Government of the United States;

"(C) is a trained health care professional who meets the following:

"(i) is a citizen or national of the United States; or

"(ii) maintains contact with appropriate international organizations to carry out the purposes of the Corps and with foreign governments that are current or prospective recipients of services provided by the Corps.

"(D) to coordinate, unify, strengthen, and focus the provision of health care personnel, items, and related services on a short-term or long-term basis; and

"(D) The Director and any staff of the Office.

"(E) Any other individual that the Director determines is appropriate to include in the Corps.

"(4) Providing administrative support and management for the Corps, including—

"(A) assisting candidates in the application and training process, as appropriate;

"(B) facilitating the travel of participants to foreign countries and regions and the work of participants in foreign countries and regions;

"(C) ensuring participants have appropriate legal protections and immunities through mechanisms including bilateral agreements with agencies, organizations, or countries receiving participants, hiring non-Federal volunteers as intermittent Federal employees, or providing participants status as employees of the Government of the United States for the purposes of such protections, as appropriate;

"(D) providing strategic guidance and policy for the human resources management of the Corps;

"(E) carrying out activities to retain participants in the Corps, including maintaining a database of current and former participants; and

"(F) ensuring participants have appropriate health, security, and cultural training prior to arriving in a foreign country.

"(I) The Department of Health and Human Services, the Peace Corps, the National Disaster Medical System, the Medical Reserve Corps, the Office of Force Readiness and Deployment, Volunteers for Peace, the Peace Corps Volunteer, the Bureau of Global Health Affairs of the Agency, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, and others, as appropriate, to improve the health, welfare, and development of communities in such foreign countries and regions in the provision of health care personnel, items, and related services on a short-term or long-term basis; and

"(ii) maintains contact with appropriate international organizations to carry out the purpose of the Corps and with foreign governments that are current or prospective recipients of services provided by the Corps.

"(B) coordinating the activities of the Corps with activities carried out by other bureaus of the Department and by the Agency, the Department of Defense, the Department of State, the Peace Corps, and other executive department, as appropriate, to advance and promote the purpose and activities of the Corps as effectively and efficiently as possible;

"(C) meeting routinely with representa-
tives from the Peace Corps, the National Disaster Medical System, the Medical Reserve Corps, the Office of Force Readiness and Deployment, Volunteers for Peace, the Peace Corps Volunteer, the Bureau of Global Health Affairs of the Agency, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, and others, as appropriate, to improve the health, welfare, and development of communities in such foreign countries and regions in the provision of health care personnel, items, and related services on a short-term or long-term basis; and

"(D) maintaining contact with appropriate international organizations to carry out the purpose of the Corps and with foreign governments that are current or prospective recipients of services provided by the Corps.

"(B) to promote United States public diplomacy in such foreign countries and regions by matching the needs of such communities with the services available from the Global Health Corps;

"(C) to provide for the effective management and administration of the Global Health Corps; and

"(D) to coordinate, unify, strengthen, and focus the provision of health care personnel, items, and related services to foreign countries and regions by departments, agencies, including a physician, nurse, dentist, veterinarian, or other professional determined to be appropriate by the Director; or

"(ii) is a resident of the United States, at the discretion of the Secretary;
(D) is seeking membership in the Corps and is willing to work under austere and challenging conditions.

(2) FEDERAL EMPLOYEE.—A citizen, national, or resident of the United States who—

(A) is an employee of the Government of the United States;

(B) meets the requirements of clause (i) or (ii) of paragraph (1)(C); and

(C) is seeking membership in the Corps, or is designated as a candidate by the head of the executive department that employs such citizen, national, or resident.

(3) PEACE CORPS VOLUNTEER.—A citizen or national of the United States who—

(A) is seeking membership in the Peace Corps;

(B) meets the requirements of clause (i) or (ii) of paragraph (1)(C); and

(C) is qualified to participate in the comprehensive training program established under section 274(e)(2), as determined by the Director;

and

(C) is seeking enrollment in the Corps.

(e) MEMBERSHIP IN THE CORPS.—

(1) IN GENERAL.—The Director may—

(A) enroll and accept the services of candidates who are not employees of the Government of the United States in the Corps, without regard to section 1342 of title 31, United States Code;

(B) designate candidates who are employees of the Government of the United States as members of the Corps, with the approval of the head of the executive department that employs such employee;

and

(C) accept details or assignments of employees of the Government of the United States to serve in the Corps on a reimbursable or nonreimbursable basis.

(2) APPLICATION.—The Director shall establish procedures for individuals to submit applications for enrollment in the Corps.

SEC. 274. FUNCTIONS AND TRAINING OF THE CORPS.

(a) IN GENERAL.—Participants shall be available to provide the services described in subsection (b) to individuals and communities in the locations described in subsection (c).

(b) SERVICES.—Subject to subsection (f), the services referred to in subsection (a) are services, including assistance and training, provided to individuals and communities to carry out the purpose of the Corps, including the provision of—

(1) health care items and related services, including dental care;

(2) preventive care, treatment, and services;

(3) veterinary and related services;

(4) sanitation, hygiene, food preparation, and clean water training;

(5) disease surveillance and basic health care services to individuals and communities affected by diseases or illnesses as identified by the Director;

(6) education and training related to the services described in paragraphs (1) through (5);

(7) education and training to local persons to improve health care outcomes, and to assist in the development of local and indigenous health care delivery capacity and self-sufficiency; and

(8) other health care items and related services determined to be appropriate by the Director, including health care training, health systems development, and technical support.

(c) LOCATIONS.—The Director is authorized to the concurrence of the Secretary of State, the services described in subsection (b) to individuals and communities in a foreign country or region if—

(1) the Secretary of State has determined that such country or region is in need of such services; and

(2) the Secretary of State has determined that the provision of such services may help promote a better understanding of the people of the United States on the part of the people served in such a country or region.

(d) PLACEMENT OF PARTICIPANTS.—

(1) IN GENERAL.—The Director shall decide on the placement of a participant in a foreign country or region described in subsection (c) after—

(A) determining that the location or organization is in need of the services provided by the Corps in which the participant has expertise and training;

(B) consulting with the Secretary of the Department of State on the extent to which the placement of the participant in a particular location or organization advances the foreign policy and public diplomacy objectives of the United States; and

(C) considering the skills, qualifications, and availability of the participant.

(2) REQUIREMENT.—The Director shall, prior to placing a participant in a foreign country or region, consult with—

(A) the head of the executive department that employs the participant, if the participant is an employee of the Government of the United States;

(B) the United States Ambassador to such foreign country; and

(C) the head of any executive department that is providing health care or related services in such foreign country.

(e) TRAINING.—

(1) REQUIREMENT.—The Secretary shall ensure that appropriate training programs are available, including the comprehensive training program described in paragraph (2) and appropriate health, security, and cultural training for participants, to prepare participants to provide the services described in subsection (b).

(2) COMPREHENSIVE TRAINING PROGRAM.—

(A) Establishment.—The Director shall establish and carry out a program, either separately or jointly with a Federal, public, or private sector health care provider or health care institution, to provide members of the Corps selected by the Director training in a variety of health care disciplines, including basic medical, dental, public health, nursing, epidemiological services, and veterinary care.

(B) TRAINING PROVIDED.—The program established under subparagraph (A) shall be designed without the concurrence of the Secretary, Administrator of the Agency, the Secretary of Agriculture, the Secretary of Defense, the Secretary of State and the Director of the Peace Corps, to provide comprehensive basic training for a period of not more than 6 months to each participant who is a member of the Peace Corps and each previous participant whose determination is appropriate to enable such participant to provide the services described in subsection (b), including training in a variety of health care disciplines, nursing, epidemiological services, and veterinary care.

(C) REMBURSEMENT.—The Director is authorized to permit a participant who is not a member of the Peace Corps to receive training in the program established under subparagraph (A) on a reimbursable basis, unless determined otherwise by the Secretary.

(D) PROGRAM MODEL.—The program established under subparagraph (A) should be modeled on successful public and private sector programs. The Director of the Special Operations Medical Training Center program conducted by the Department of Defense and those conducted by various medical and nursing schools around the country.

(E) PROHIBITION ON PARTICIPATION IN SIMILAR TRAINING.—A participant may not participate in the Joint Special Operations Medical Training Center program conducted at Fort Bragg, North Carolina.

(f) SERVICE REQUIREMENT.—

(1) NON-FEDERAL VOLUNTEERS.—A participant who is not an employee of the Government of the United States or a Peace Corps volunteer and who attends a training program established under paragraph (2), shall be obligated to complete the amount of service in the Corps, commensurate with the type and amount of training received, that the Secretary determines is appropriate.

(2) ALL PARTICIPANTS.—A participant who attends a training program established under paragraph (2) shall be obligated to complete the amount of service in the Corps, commensurate with the type and amount of training received, that the Secretary determines is appropriate.

(g) TRAVEL EXPENSES.—

(1) NON-FEDERAL VOLUNTEERS.—The Director may provide a participant who is not an employee of the Government of the United States or a Peace Corps volunteer travel expenses, excluding per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(2) FEDERAL EMPLOYEES.—The Director shall provide a participant who is an employee of the Government of the United States travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(h) PEACE CORPS VOLUNTEERS.—The Director may not provide a participant who is a Peace Corps volunteer travel expenses in addition to such expenses provided for under the Peace Corps Act (22 U.S.C. 2501 et seq.).

(i) APPLICABILITY OF LAWS TO NON-FEDERAL VOLUNTEERS.—

(1) NON-FEDERAL VOLUNTEERS.—The Peace Corps Act (22 U.S.C. 2501 et seq.) prohibits providing funding for such activity.

(2) ANY PROVISION OF THE ANNUAL FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT THAT RELATES TO ABORTION PROHIBITS PROVIDING ASSISTANCE FOR SUCH ACTIVITY.

SEC. 275. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) COMPENSATION OF PARTICIPANTS.—

(1) NON-FEDERAL VOLUNTEERS.—A participant who is not an employee of the Government of the United States or a Peace Corps volunteer shall serve in the Corps without compensation from the Government of the United States or to either the participant or to any other person.

(2) FEDERAL EMPLOYEES.—A participant who is an officer or employee of the Government of the United States shall serve without compensation in addition to that received for their service as officers or employees of the United States.

(3) PEACE CORPS VOLUNTEERS.—A participant who is a Peace Corps volunteer shall serve without compensation in addition to the amount of compensation received for their service in the Peace Corps under the Peace Corps Act (22 U.S.C. 2501 et seq.).

(b) TRAVEL EXPENSES.—

(1) NON-FEDERAL VOLUNTEERS.—The Director may provide a participant who is not an employee of the Government of the United States or a Peace Corps volunteer travel expenses, excluding per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(2) FEDERAL EMPLOYEES.—The Director shall provide a participant who is an employee of the Government of the United States travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(3) PEACE CORPS VOLUNTEERS.—The Director may not provide a participant who is a Peace Corps volunteer travel expenses in addition to such expenses provided for under the Peace Corps Act (22 U.S.C. 2501 et seq.).

(4) APPLICABILITY OF LAWS TO NON-FEDERAL VOLUNTEERS.—

(1) NON-FEDERAL VOLUNTEERS.—The Director may provide a participant who is not an employee of the Government of the United States or a Peace Corps volunteer travel expenses, excluding per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(2) FEDERAL EMPLOYEES.—The Director shall provide a participant who is an employee of the Government of the United States travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Corps.

(3) PEACE CORPS VOLUNTEERS.—The Director may not provide a participant who is a Peace Corps volunteer travel expenses in addition to such expenses provided for under the Peace Corps Act (22 U.S.C. 2501 et seq.).

(4) APPLICABILITY OF LAWS TO NON-FEDERAL VOLUNTEERS.—
“(1) IN GENERAL.—A member of the Corps who is not an employee of the Government of the United States or a Peace Corps volunteer may not be considered an employee of the Government of the United States, except for the purposes of—

(A) section 272(b)(6)(C);

(B) chapter 81 of title 5, United States Code (relating to compensation for work-related injuries); and

(C) chapter 11 of title 18, United States Code (relating to conflicts of interest).

(2) VOLUNTEER STATUS.—A member of the Corps who is not an employee of the United States or a Peace Corps volunteer shall be deemed to be a volunteer for a non-profit organization or governmental entity for the purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

(3) INAPPLICABILITY OF EXCEPTIONS.—Section 4(d) of such Act (42 U.S.C. 14503(d)) may not apply to a member of the Corps who is not an employee of the United States or a Peace Corps volunteer.

(4) TERMS AND CONDITIONS.—With respect to the membership of a candidate in the Corps, the terms and conditions of the enrollment, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of such participant shall be exclusively those set forth in this part and those consistent with such terms and conditions which the Secretary may prescribe.

(5) SEC. 251 PUBLIC HEALTH SERVICE MEMBERS IN THE GLOBAL HEALTH CORPS.

(a) AUTHORITY TO ENROLL.—A member of the Service may enroll in the Corps and provide services as a member of the Corps described in this part.

(b) MINIMUM NUMBER.—Not later than 2 years after the date of enactment of the Global Health Corps Act of 2005, the Secretary shall designate not less than 500 employees of the Service as members of the Corps and make such employees available to provide non-emergency, routine health care items and related services in the Corps, as the Secretary and the Secretary of State determine appropriate.

(c) RAPID RESPONSE CAPACITY.—Not later than 1 year after the date of enactment of the Global Health Corps Act of 2005, the Secretary shall establish within the Commissioned Corps of the Service a rapid response capacity consisting of not less than 250 individuals, to provide health care items and related services in foreign countries or regions to carry out the purpose of the Corps on short notice, in coordination with the Secretary of State. A member of the Commissioned Corps who is included in such rapid response capacity shall—

(1) be trained, equipped, and able to deploy to a foreign country or region within 72 hours of notification of such deployment; and

(2) be considered a participant in the Corps.

SEC. 3. PEACE CORPS VOLUNTEERS IN THE CORPS.

The Peace Corps Act (22 U.S.C. 2501) is amended by inserting after section 5 the following new section:

"GLOBEAL HEALTH CORPS VOLUNTEERS

Sec. 5A. (a) Volunteers are authorized to participate in the Global Health Corps, established in section 273 of the Public Health Service Act,

(b) Not later than 2 years after the date of enactment of the Global Health Corps Act of 2005, the Director of the Peace Corps shall make available not less than 250 positions within the Peace Corps for volunteers to serve in the Global Health Corps.

(c) A volunteer may apply and be approved for enrollment in the Global Health Corps and such member may serve as a member of the Global Health Corps as the Director of the Peace Corps and the Secretary of Health and Human Services require.

(d) A volunteer who is enrolled in the Global Health Corps shall receive training under section 274(e)(2) of the Public Health Service Act, unless such volunteer meets the requirements of clause (i) or (ii) of section 273(d)(1)(C) of such Act.

(e) A volunteer who is enrolled in the Global Health Corps shall provide services as a member of the Global Health Corps as described in part D of title II of the Public Health Service Act.

(f) A volunteer who is enrolled in the Global Health Corps shall be subject to all other terms and conditions of service under this Act.

SEC. 4. VOLUNTEERS FOR PROSPERITY.

(a) FINDING.—Congress finds that the Volunteers for Prosperity program, organized pursuant to Executive Order 13317 (42 U.S.C. 12501 note), is a model to link non-Federal volunteers with non-Federal organizations to carry out important public-private partnerships.

(b) REQUIREMENT FOR CORPS INITIATIVE.—The head of the Volunteers for Prosperity program shall include in any initiative know as the Health Care for Peace initiative within such program for the purpose of making available non-Federal volunteers to participate in such initiative and such initiative is established under section 273 of the Public Health Service Act.

SEC. 5. PUBLIC-PRIVATE PARTNERSHIPS.

(a) IN GENERAL.—Under the authority of subsections (a) and (b) of section 601 of the Foreign Assistance Act of 1961 (22 U.S.C. 2351) and section 658(d) of such Act (22 U.S.C. 2395(d)), the Global Health Corps may establish public-private partnerships in furtherance of the purposes of this Act and the Global Health Corps. Such partnerships may include activities such as—

(1) corporate volunteer programs;

(2) training;

(3) transportation;

(4) field support;

(5) volunteer identification;

(6) lodging;

(7) communications;

(8) fellowships and scholarships; and

(9) other activities relevant to the mission of the Global Health Corps.

(b) CONSULTATION.—The Director of the Global Health Corps shall consult with the Office of the Global Health Corps, as established in section 273, the Peace Corps, other public and private entities engaged in public health, and the trial lawyers.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which may be cited as the Fairness In Asbestos Injury Resolution Act of 2003. I do so on behalf of Senator LEAHY, the ranking member of the Judiciary Committee, Senator HATCH, the former chairman of the committee, Senator FEINSTEIN, Senator DEWINE, Senator BAUCUS, Senator VÖINOVIČ and Senator GRASSLEY. There are others in the wings waiting to cosponsor, but this is a very complex bill, ranging over 300 pages. Quite a number of my colleagues have told me they are supportive of the bill and are making the final check to determine cosponsorship.

Several months ago, a discussion draft was circulated. Last week, after a great many refinements had been added, the current bill was circulated. There have been a couple of relatively minor changes which have been added to this bill, but it is essentially the same as the circulation bill which was submitted a week ago.

I compliment my distinguished colleague, Senator LEAHY, the ranking member for his diligence, hard work and cooperation in structuring a bill with a great many moving parts, which he and I have been able to agree upon on the core principles.

We have adopted a position that we will work jointly to retain these core provisions. We are open to suggestions and amendments and modifications which do not impact on these core provisions. But it is a very difficult matter to structure an asbestos bill which does the right thing for the asbestos litigators and the asbestos industry, but also protects the asbestos workers. The asbestos industry is principally supported by the Republican party, and there are over 50 Democrats. It has to be a balanced bill, and it is our submission that this is a balanced bill.

A great deal of credit is due to senior Federal Judge Edward R. Becker, who until May 5, his 70th birthday, in the year 2003 was the chief judge of the Court of Appeals for the Third Circuit who wrote the opinion on the asbestos litigation which reached the Supreme Court of the United States.

When the Judiciary Committee passed out of committee legislation on asbestos in July of 2003, the distinguished Presiding Officer was on the committee at that time and can attest to the 12-hour marathon session we had. We did so significantly along party lines to move the legislation along, recognizing it had many problems. At my request, Judge Becker then convened the so-called stakeholder meetings in his chambers in Philadelphia for 2 days in August. The stakeholders being identified as the manufacturers, the AFL-CIO, the insurance industry, and the trial lawyers.
To recite the power and diversity and difference of opinion of these groups is to suggest the complication of bringing the stakeholders together on a piece of complex legislation.

Following those 2 days of meetings in Judge Hatch's chambers, we have had some 36 sessions in my conference room here in the Hart Senate Office Building where Judge Becker presided and I assisted, and we worked out a great many of the issues to the satisfaction of all of the stakeholders.

One of the core provisions of the bill is that there is a trust fund of $140 billion. It is always difficult on projections to be absolutely certain, but I believe there is a very high probability that this trust fund will be adequate to pay all of the claims.

In very extensive testimony from Goldman Sachs on very carefully calculated projections, it was projected that the total impact of the economy would be $118 billion. There is a considerable cushion between $118 billion and $140 billion. If for some unexpected reason the trust fund is insufficient, then those who have been injured by exposure will have every right to be able to return to the courts.

All of us are mindful of the very substantial factor when a claimant gives up a constitutional right to jury trial, but in a program structured largely along lines of workmen's compensation, it is our conclusion that it is a fair exchange. When you find that there are many people who are suffering deadly ailments from the cancerous mesothelioma and other deadly injuries, who are not being compensated, this is a way to compensate those individuals whose companies have gone bankrupt. Over 75 companies have gone bankrupt at a tremendous cost to the companies and the economy. This will relieve the companies of the onerous threat of bankruptcy—and they are taking additional companies with rapidity.

On one development which candidly surprised me, last week, when we circulated the draft bill a week ago today, there was a 25-point bump in the stock market for asbestos companies. When we had a meeting later in the day and deferred production of the bill, the market went down to some extent. There is some consideration that the stock market is wiser even than Congress. Perhaps that would take a whole lot. But the reaction of the stock market gives some impetus to the importance of resolving this asbestos issue in order to give the economy a start.

The hour is late. There are others who wish to see recognition. That distinguished chairman of the Appropriations Committee is sitting in the room here in the Hart Senate Office Building where Judge Becker is a pro-bono mediator, usually at the request of the members of the Senate Judiciary Committee and their staffs, the Senate leadership and other very distinguished members of this Finance Committee. Perhaps that would take a whole lot. But the stakeholders and to get their input on drafting the bill. After analysis and deliberation, we found we could accommodate many of the competing interests.

The process commenced with the blessing of Chairman Hatch and Ranking Member Leahy of the Judiciary Committee. This extended process allowed the stakeholders an extraordinary hearing process and really amounted to the longest “mark-up” in Senate history although not in the customary framework. We have had the cooperation of many Senators. Senators Hatch and Leahy have had representatives at all the meetings. The majority leader, Senator Hatch, and Senator Leahy have addressed this “working group” at our meetings with Senator Hatch and Senator Leahy’s representatives have been active participants at every meeting, as well as the members of the staffs of Senators Biden, Brown, Harper, Chafee, Chambless, Coburn, Cornyn, Craig, DeWine, Dodd, Durbin, Feingold, Feinstein, L. Graham, Grassley, Hagel, Kennedy, Kohl, Kyl, Landrieu, Levin, Lincoln, McCain, Nelson, Pryor, Schumer, Sessions, Snowe, Stabenow, and Voinovich.

The concept of a trust fund is an outstanding idea. Senator Hatch deserves great credit for moving the legislation in the direction of a trust fund with a schedule of payments analogous to workers’ compensation. In the cases that have gone through the litigation process. Under this proposal, the Federal Government would establish a national trust fund privately financed by asbestos defendant companies and insurers. No taxpayer money would be involved. Asbestos victims would simply submit their claims to the fund. Claimants would be fairly compensated if they meet medical criteria for certain illnesses and show past asbestos exposure. The trust fund would guarantee compensation for impaired victims.

Through the series of meetings with Judge Becker, we have wrestled with the issue that has been present in all meetings. The size of the trust fund is always a principal issue of dispute, starting at $108 billion. The manufacturers/insurers raised their offer to $140 billion. Last October, Majority Leader Frist and then-Democratic Leader Daschle agreed to about $140 billion. When Senator Frist and Senator Daschle, in an adversarial context, agreed to the adequacy of the $140 billion figure, it did exceed it even though the AFL-CIO did not contemporaneously agree.

It is not possible to say definitely what figure would be adequate because it depends on the uncertainty of how many claims will be filed. There is support for the adequacy of the $140 billion figure from reputable projections but they are, admitted, only projections.

The real safety valve, if the fund is unable to pay claims, is for the injured to have the ability to go back to the courts. That is not operational and able to pay exigent health claims within 9 months after enactment, and all other valid claims within 24 months after enactment. As the tort system, the bill provides that claimants may file suits either in Federal court or the ongoing rash of bankruptcies, growing monthly; diverting resources from those who were injured and pensions, stock prices, tax revenues and income affecting so many companies, this also creates an enormous threat of bankruptcy—and companies have gone bankrupt. Over 75 companies have gone bankrupt. Over 75 companies have gone bankrupt. When you find that there are many people who are suffering deadly ailments from the cancerous mesothelioma and other deadly injuries, who are not being compensated, this is a way to compensate those individuals whose companies have gone bankrupt. Over 75 companies have gone bankrupt at a tremendous cost to the companies and the economy. This will relieve the companies of the onerous threat of bankruptcy—and they are taking additional companies with rapidity.

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State court in the state in which the plaintiff resides or State court in the state where the asbestos exposure took place.

The claimants object to any hiatus between asbestos exposures and an asbestos elimination system; but the reality is that court delays are customarily longer than the delay structured in this system. The defendants and insurers are getting too lawsuits in a two-year frame, but they have the power to expedite the process by promptly paying their assessments. I am confident that there will be no problems with the timely administration of the asbestos trust fund. Furthermore, only written settlement agreements, executed prior to date of enactment, between a defendant and the administrator of the trust fund will be preserved outside of the fund; the settlement agreement must contain an express obligation by the settling defendant to make a future monetary payment to the individual plaintiff, but gives the plaintiff 30 days to fulfill all conditions of the settlement agreement.

The legislation includes language which is designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the act must be brought in the United States District Court for the District of Columbia. The bill also provides for an expedited appeal to the Supreme Court on an expedited basis. An action under this section is to be filed within 60 days after the date of enactment or 60 days after the filing of an administrative determination giving rise to the action, whichever is later. The district court and Superior Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

The claims also expressed the need for assurance that the fund award will be paid into the fund. Therefore, the legislation also requires enhanced “transparency” of the payments by the defendants and insurers in the first 5 years. The fact that 20 days after the end of such 60-day period, the administrator shall publish in the Federal Register a list of such submissions, including the name of such person or affiliated group and the likely tier to which such persons or affiliated groups may be assigned. After publication of such list, any person may submit to the administrator information on the identity of any other person that may have obligations under the fund. In addition, there are further notice and disclosure requirements included in the draft. It also provides that within 60 days after the date of enactment, any person, who acting in good faith, has knowledge that such a person’s affiliated group would result in placement in the top tiers, shall submit to the administrator either the name of such person or such person’s affiliated group and the likely tier to which such person or affiliated group may be assigned under this act.

This legislation deals with a number of very complex issues, one of them being that of “mixed-dust.” I held a hearing in the Judiciary Committee on this issue on February 2, 2005. The manufacturers fear that many asbestos claims will be “repackaged” as silica claims in the tort system. Evidence adduced at the hearing reflects that this has been happening in a number of jurisdictions. If a claim is due to asbestos exposure at all, the program should be the exclusive means of compensation. The stakeholders agree that this is not as an event to dispose of all asbestos claims but that workers with genuine silica exposure disease ought to be protected under the tort system. The problem is that with those claims where the point of demarcation is unclear. Silica/asbestos defendants are worried that the definition of that phase will find that the burden of proving that the plaintiff’s injury is due to asbestos rather than silica. This legislation makes clear that pure silica cases are not preempted involving asbestos disease are preempted. A claimant must provide rigorous medical evidence
establishing by a preponderance of evidence that their functional impairment was caused by exposure to silica, and asbestos exposure was not a significant contributing factor. Although some of the burdens of the claimant, this is no different than the burden the plaintiff or any party advancing a position has in producing medical evidence in any case. A physician will state that a disease was caused by some condition or exposure or that it was not caused by some condition or exposure. In addition, the testimony given at the February 2 hearing on the issue established that asbestos and silica are easily distinguishable on x-ray and that asbestos and silica rarely are found in the same patient.

Another very complicated issue addressed in this legislation, is that of providing for awards for exceptional mesothelioma cases based on age and the number of dependents of the claimant. For example, a mesothelioma victim who is 40 years old with two children will be able to get an upwards adjustment in his award amount as compared to a 80 years mesothelioma victim with no dependents. The impact of such adjustments to the fund will remain revenue-neutral.

There has been a strong concern that this bill should not become a “smokers” bill rather than an asbestos bill—that thousands of smokers will claim to be in the Level VII compensation tier in order to get money even if asbestos had nothing to do with their disease. In discussions with the various sides, it has been decided to remove Level VII cases from the fund, cases which had the potential to bring down the entire fund.

There has also been a concern with the legitimacy of the Level VI compensation tier. I requested that the Institute of Medicine, IOM, commence a study to assess the medical evidence so as to determine whether colorectal, laryngeal, esophageal, pharyngeal or stomach cancer can be caused by asbestos exposure. The IOM will conclude its study of Level VI causation by April 2006. With a 270-day stay on exigent cases and 2-year stay of all other cases, this has the practical impact of the IOM study results being conclusive on inclusion or exclusion of Level VI prior to any claim being filed.

The bill retains the Level VI tier pending the IOM study conclusions but continues to provide extensive safeguards to the fund against those individuals with these diseases being against the asbestos trust fund. Any Level VI claim must be based on findings by a board certified pathologists accompanied by evidence of a bilateral asbestos-related nonmalignant disease; evidence of 15 or more weighted years of substantial occupations exposure to asbestos; and supporting medical documentation establishes the asbestos exposure as a contributing factor in causing the cancer in question. The claim must also be referred to a physicians panel for a determination that it is more probable as the not that asbestos exposure was a substantial contributing factor in causing the other cancer in question. Further, the bill mandates that the physicians panel in asbestos claims smoking history as opposed to “claimant may request.”

This is a complicated bill, but one that is both integrated and comprehensive and reflective of a remarkable will to enact legislation. If this bill is rejected, I do not see the agenda of this Senate Judiciary Committee revising the issue. I cannot conceive of a more strenuous effort being directed to this subject that has been done over the past two years. This is the last best chance. I request that we can forge and enact a bill that is fair to the claimants and to business and that will put an end once and for all to this nightmare chapter in American legal, economic and social history. If We can summon the legislative will in a bipartisan spirit, it can be done.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed.

Mr. President, I ask unanimous consent between the comments I have made, which have not been made from a text, and the text of my language which I am currently stating, be included, so that those who read the CONGRESSIONAL RECORD, if anyone does, will know the repetition in the prepared text is occasioned by the fact that the initial statement was made without reference to a text and there will necessarily be some repetition in the prepared text.

I thank the Chair. I yield the floor.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 862

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Fairness in asbestos Compensation Act of 2005” or the “FAIR Act of 2005”.
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

SEC. 2. FINDINGS AND PURPOSE.

SEC. 3. Definitions.

TITILE I—ASBESTOS CLAIMS RESOLUTION FUND

SUBTITLE A—ASBESTOS DISEASE COMPENSATION


SEC. 102. Advisory Committee on Asbestos Disease Compensation.

SEC. 103. Medical Advisory Committee.

SEC. 104. Claimant assistance.

SEC. 105. Physicians Panels.

SEC. 106. Program startup.

SEC. 107. Authority of the Administrator.

TITILE B—ASBESTOS DISEASE COMPENSATION PROCEDURES

SEC. 111. Essential elements of eligible claim.

SEC. 112. Claimants receiving no-fault compensation.

SEC. 113. Filing of claims.

SEC. 114. Eligibility determinations and claim awards.

SEC. 115. Medical evidence auditing procedures.

TITILE C—MEDICAL CRITERIA

SEC. 121. Medical criteria requirements.

TITILE D—AWARDS

SEC. 131. Amount.

SEC. 132. Medical monitoring.

SEC. 133. Payment.

SEC. 134. Reduction in benefit payments for collateral sources.

SEC. 135. Certain claims not affected by payment of awards.

TITILE II—ASBESTOS INJURY CLAIMS RESOLUTION FUND

SUBTITLE A—ASBESTOS DEFENDANTS FUNDING ALLOCATION

SEC. 201. Definitions.

SEC. 202. Authority and tiers.

SEC. 203. Subtractions.

SEC. 204. Assessment administration.

SEC. 205. Stepdowns and funding holidays.

SUBTITLE B—ASBESTOS INSURERS COMMISSION

SEC. 210. Definition.
argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure. In 1988, the Court in Ortiz v. Fibreboard Corp., 527 U.S. 819, 821 (1999), found that the “elephantine mass of asbestos cases . . . defies customary judicial administration and calls for national legislation.” That finding was again recognized in 2003 by the Court in Norfolk & Western Railway Co. v. Ayers, 123 S. Ct. 1210 (2003).

(7) This crisis, and its significant effect on the health and welfare of the people of the United States, on interstate and foreign commerce, and on the bankruptcy system, compels Congress to exercise its power to regulate interstate commerce and create this legislative solution in the form of a national claims processing system that supersedes all existing methods to compensate those injured by asbestos, except as specified in this Act.

(8) This crisis, while also imposing a deleterious burden upon the United States bankruptcy courts, which have assumed a heavy burden of administering complicated and protracted bankruptcies with limited personnel.

(9) This crisis has devastated many communities across the country, but has hit hardest in areas where asbestos was mined from the area and despite ongoing communities across the country, but hardest hit protracted bankruptcies with limited personal. compensation to—

(1) create a privately funded, publicly administered fund to provide the necessary resources to efficiently and effectively resolve asbestos injury claims that will provide compensation for legitimate present and future claimants of asbestos exposure as provided in this Act;

(2) provide compensation to those present and future victims based on the severity of their illness, while establishing a system flexible enough to accommodate individuals whose conditions worsen;

(3) relieve the Federal and State courts of the burden of asbestos litigation that has bankrupted companies with asbestos liability;

(4) increase economic stability by resolving the asbestos litigation crisis that has bankrupted companies with asbestos liability.

In this Act, the following definitions shall apply:

(1) ADMINISTRATOR—The term “Administrator” means the Administrator of the Office of Asbestos Disease Compensation appointed under subsection (b).

(2) ASBESTOS.—The term “asbestos” includes—

(A) chrysotile;

(B) crocidolite;

(C) tremolite asbestos;

(D) erionite asbestos;

(E) actinolite asbestos;

(F) anthophyllite asbestos;

(G) amosite;

(H) any of the minerals listed under subparagraphs (A) through (I) that has been chemically treated or altered, and any asbestiform variety, type, or component thereof; and

(K) any other mixture, product, or any other material that contains asbestos in any physical or chemical form.

(3) ASBESTOS CLAIM.—

(A) IN GENERAL.—The term “asbestos claim” means any claim, presented on any theory, allegation, or cause of action for damages for personal injury resulting from the presence of asbestos in an asbestos-containing material or from action or bankruptcy proceeding directly, indirectly, or derivatively arising out of, based on, or related to, whole or part, the activities or operations of a predecessor of a defendant participant under this Act, including loss of consortium, wrongful death, and any derivative claim made by, on behalf of, any exposed person or any representative, spouse, parent, child, or other relative of any exposed person.

(B) EXCLUSION.—The term does not include—

(i) claims alleging damage or injury to tangible property;

(ii) claims for benefits under a workers’ compensation law or veterans’ benefits program;

(iii) claims arising under any governmental or private health, welfare, disability, death or compensation policy, program or plan;

(iv) claims arising under any employment contract or collective bargaining agreement;

(v) claims arising out of medical malpractice.

(4) ASBESTOS CLAIMANT.—The term “asbestos claimant” means an individual who files a claim under section 113.

(5) CIVIL ACTION.—The term “civil action” means all suits of a civil nature in State or Federal courts, whether equitable, at law, or in equity or in admiralty, but does not include an action relating to any workers’ compensation law, or a proceeding for benefits under any veterans’ benefits program.

(6) COLLATERAL SOURCE COMPENSATION.—The term “collateral source compensation” means the compensation that the claimant received, or is entitled to receive, from a defendant or an insurer of that defendant, or compensation trust as a result of a final judgment or settlement for an asbestos-related injury that is the subject of a claim filed under section 113.

(7) ELIGIBLE DISEASE OR CONDITION.—The term “eligible disease or condition” means the extent that an illness meets the medical standards established by the Administrator.

(8) EMPLOYERS’ LIABILITY ACT.—The term “Employers’ Liability Act” shall, for all purposes of this Act, include the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Jones Act.

(9) FUND.—The term “Fund” means the Asbestos Injury Claims Resolution Fund established under section 221.

(10) INSURANCE RECEIVERSHIP PROCEEDING.—The term “insurance receivership proceeding” means any proceeding in which the liquidation, rehabilitation, conservation, superintendence, or ancillary receivership of an insurer under State law.

(11) LAW.—The term “law” includes all laws, judicial or administrative decisions, rules, regulations, or any other principle or action having the effect of law.

(12) PARTICIPANT.—

(A) IN GENERAL.—The term “participant” means any person who, for any of the reasons set forth in the Act of April 22, 1908 (45 U.S.C. 51 et seq.), qualifies as an employe, as defined by the Jones Act, or an employee who is not already a participant under this Act.

(B) EXCEPTION.—If a person who has already obtained a grant from any asbestos claim by reason of an injunction entered in connection with a plan of reorganization under section 1101(2) of title 11, United States Code, that has been confirmed by a duly entered order or judgment of a court that is no longer subject to any appeal or judicial review, and the substantial conditions for such a plan of reorganization have occurred.

(C) EXCEPTION.—The term “participant” shall not apply to a person who may be liable under subtitle A of title II based on prior asbestos expenditures related to asbestos claims that have not been recovered by an injunction described under clause (i).

(13) PERSON.—The term “person”—

(A) means an individual, trust, firm, joint stock company, partnership, association, insurance company, reinsurer company, or corporation; and

(B) does not include the United States, any State or local government, or subdivision thereof, including school districts and any general or special function governmental unit established under State law.

(14) PLAN.—The term “plan”—

(A) means the Federal Employees’ Compensation Act of 1911 (38 U.S.C. 1341 et seq.), and includes any plan of reorganization under chapter 11, title 11, United States Code, of such State plan, any State law, judicial or administrative decisions, rules, regulations, or any other principle or action having the effect of law.

(B) means all suits of a civil nature in State or Federal courts, whether equitable, at law, or in equity or in admiralty, but does not include an action relating to any workers’ compensation law, or a proceeding for benefits under any veterans’ benefits program.

(15) SUBSTANTIALLY CONTINUES.—The term “substantially continues” means that the business operations have not been significantly modified by the change in ownership.

(16) SUCCESSOR IN INTEREST.—The term “successor in interest” means any person that acquires assets, and substantially continues the business operations, of a participant. The factors to be considered in determining whether a person is a successor in interest include—

(A) retention of the same facilities or location;

(B) retention of the same employees;

(C) maintaining the same job under the same working conditions;

(D) retention of the same supervisory personnel;

(E) continuity of assets;

(F) production of the same product or offer of the same service;

(G) retention of the same name;

(H) maintenance of the same customer base;

(I) identity of stocks, stockholders, and directors between the asset seller and the purchaser;

(J) whether the successor holds itself out as continuation of previous enterprise, but expressly does not include whether the person is subject to the liability of the participant under this Act.

(17) VETERANS’ BENEFITS PROGRAM.—The term “veterans’ benefits program” means any program for benefits in connection with military service administered by the Veterans’ Administration under title 38, United States Code.

(18) WORKERS’ COMPENSATION LAW.—The term “workers’ compensation law” means any law respecting a program administered by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.

(B) includes the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 901 et
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seq.) and chapter 81 of title 5, United States Code; and
(C) does not include the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the "Welsh's Liability Act, or damage
covered by any employee in a liability ac-
tion against an employer.

TITLE I—ASBESTOS CLAIMS RESOLUTION
Subtitle A—Office of Asbestos Disease Compensation

SEC. 101. ESTABLISHMENT OF OFFICE OF ASBES-
TOS DISEASE COMPENSATION.

(a) IN GENERAL.—There is established within the Department of Labor the Office of Asbestos Disease Compensation (hereinafter referred to in this Act as the "Office"), which is the Office of Assistant Secretary of Labor for the Employment Standards Administration.

(b) PURPOSE.—The purpose of the Office is to provide timely, fair compensation, in the amounts and under the terms specified in this Act, on a no-fault basis and in a non-ad-
versarial manner, to individuals whose health has been adversely affected by expos-
ure to asbestos.

(c) EXPENSES.—There shall be available from the Asbestos Injury Claims Resolution Fund to the Administrator such sums as are necessary for the administrative expenses of the Office, including the expenses necessary to carry out the studies provided for in section 121(e).

(b) APPOINTMENT OF ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator of the Office of Asbestos Disease Compensation shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall serve for a term of 5 years.

(2) REPORTING.—The Administrator shall report directly to the Assistant Secretary of Labor for the Employment Standards Administration.

(c) DUTIES OF ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall be responsible for—

(A) processing claims for compensation for asbestos-related injuries and paying compensa-
tion to eligible claimants under the criteria and procedures established under title I;
(B) determining, levying, and collecting as-
sessments on participants under title II;

(c) OTHER POWERS.—The Administrator shall have all other powers incidental, nec-

tary, or appropriate to carrying out the functions of the Office.

(2) CERTAIN ENFORCEMENTS.—For each in-

fration relating to paragraph (1)(H), the Ad-
nominator also may impose a civil penalty
to not exceed $10,000 on any person or entity found to have submitted or engaged in a ma-

terially false, fraudulent, or fictitious state-
ment or practice. The Administrator shall prescribe appropriate regula-
tions to implement paragraph (1)(H).

(3) SELECTING ADMINISTRATORS.—The Administrator shall select a Deputy Administrator for Claims Administration to carry out the Administrator's responsi-
bilities under title II of this Act. The Deputy Ad-

ministrator shall report directly to the Admin-
istrator and shall be in the Senior Executive Service.

(d) EXPEDITIOUS DETERMINATIONS.—The Ad-
nominator shall prescribe rules to expedite

claims for asbestos claimants with exigent circumstances in order to expedite the pay-

ment of such claims as soon as possible after startup of the Fund. The Administrator shall contract out the processing of such claims.

(e) AUDIT AND PERSONNEL REVIEW PROC-

EDURES.—The Administrator shall establish an audit and personnel review procedures for evaluating the accuracy of eligibility rec-
nommendations of agency and contract per-

sonnel.

(f) APPLICATION OF FOIA.—

(1) IN GENERAL.—Section 552 of title 5, United States Code, shall apply to the Office of Asbestos Disease Compensation and the Asbestos Insurers Commission.

(2) CONSULTATION.—Any person may des-

ignate any record submitted under this sec-
tion as a confidential commercial or finan-
cial record for purposes of section 552 of title 5, United States Code. The Administrator and the Chairman of the Asbestos Insurers Commission shall adopt procedures for designating such records as confidential. Informa-
tion regarding asbestos-related liabil-
ities submitted by any participant for the purpose of the allocation of payments under sub-
titles A and B of title II shall be deemed to be confidential.

SEC. 102. ADVISORY COMMITTEE ON ASBES-
TOS DISEASE COMPENSATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall establish an Advisory Committee on Asbestos Disease Compensation (hereinafter the "Advisory Committee").

(2) COMPOSITION AND APPOINTMENT.—The Advisory Committee shall be composed of 24 members, appointed as follows:

(A) The Majority and Minority Leaders of the Senate, the Speaker of the House, and the Minority Leader of the House shall each appoint 4 members. Of the 4—

(i) 2 shall be selected to represent the in-

terests of claimants, at least 1 of whom shall be selected from among attorneys, mediators, or investment managers. None of the mem-

bers described in paragraph (2) shall have experi-

cise or expertise in diagnosing asbestos-related diseases and conditions, assessing asbestos exposure and health risks, filing asbestos claims, claim administration, asbestos litigation or in-
surance program, or as actuaries, auditors, or investment managers. None of the mem-

bers described in paragraph (2) shall be in-

dicated by, or related in any manner to, the im-

plementation of this Act as the Administrator considers appropriate,

(b) DUTIES.—The Advisory Committee shall advise the Administrator on—

(A) claims filing and claims processing pro-
cedures;

(B) audit procedures and programs to en-
sure the quality and integrity of the com-

pensation program;

(C) the development of a list of industries, occupations and time periods for which there is a presumption of substantial occupational exposure to asbestos;

(D) recommended analyses or research that

should be conducted to evaluate past claims and to project future claims under the pro-

gram;

(E) the annual report required to be sub-
mitted to Congress under section 405; and

(F) other matters related to the imple-

mentation of this Act as the Administrator considers appropriate.

(c) OPERATION OF THE COMMITTEE.—

(1) Each member of the Advisory Com-

mittee shall be appointed for a term of 3 years, except that, of the members first ap-

pointed—

(A) 8 shall be appointed for a term of 1 year;

(B) 8 shall be appointed for a term of 2 years;

(C) 8 shall be appointed for a term of 3 years, as determined by the Administrator at the time of appointment.

The Administrator may appoint a successor to an officer appointed under the provisions of this Act who has served at least 2 years, except that no successor so appointed shall serve more than 2 years.

(d) DEBARRING.—The Administrator shall de-

bar any attorney, physician, provider of la-

datories and others who provide evidence

or representations found to have submitted or engaged in a materially false, fraudulent, or fictitious state-

ment or practice. The Administrator shall establish an advisory Committee such information as is necessary to determine whether a person or entity has engaged in any actions prohibited by this paragraph.

(e) PROHIBITION.—The Administrator shall not re-

quire the recommendation of the Advisory Com-

mittee to carry out the Administrator's respon-
sibilities under title II of this Act. The Deputy Admin-

istrator shall report directly to the Admin-
istrator and shall be in the Senior Executive Service.

(f) EXPEDITIOUS DETERMINATIONS.—The Ad-
nominator shall prescribe rules to expedite

claims for asbestos claimants with exigent circumstances in order to expedite the pay-

ment of such claims as soon as possible after startup of the Fund. The Administrator shall contract out the processing of such claims.

(g) AUDIT AND PERSONNEL REVIEW PROC-

EDURES.—The Administrator shall establish an audit and personnel review procedures for evaluating the accuracy of eligibility rec-
nommendations of agency and contract per-

sonnel.

(h) APPLICATI

ON OF FOIA.—

(1) IN GENERAL.—Section 552 of title 5, United States Code, shall apply to the Office of Asbestos Disease Compensation and the Asbestos Insurers Commission.

(2) CONSULTATION.—Any person may des-

ignate any record submitted under this sec-
tion as a confidential commercial or finan-
cial record for purposes of section 552 of title 5, United States Code. The Administrator and the Chairman of the Asbestos Insurers Commission shall adopt procedures for designating such records as confidential. Informa-
tion regarding asbestos-related liabil-
ities submitted by any participant for the purpose of the allocation of payments under sub-
titles A and B of title II shall be deemed to be confidential.

(i) The Administrator shall designate a Chairperson and Vice Chairperson from among members of the Advisory Committee appointed under subsection (a)(2)(B).

(j) The Administrator shall meet at the call of the Chairperson or the majority of its members, and at a minimum shall meet at least 4 times per year during the first 5 years of the asbestos compensation program, and at least 2 times per year thereafter.

(k) The Administrator shall provide to the Com-

mittee such information as is necessary to

perform its functions and to carry out its responsi-

bilities under this section. The Administrator may, upon request of the
Advisory Committee, secure directly from any Federal, State, or local department or agency such information as may be necessary and appropriate to enable the Advisory Committee to carry out its duties under this section. Upon request of the Administrator, the head of such department or agency shall furnish such information to the Advisory Committee without charge.

(b) The Administrator shall provide the Advisory Committee with such administrative support as is reasonably necessary to enable it to perform its duties.

(c) The Advisory Committee shall maintain a roster of qualified attorneys who, for each of the 5 years before and during their appointments, earned more than 15 percent of their income by serving in matters related to asbestos litigation as consultants or expert witnesses.

SEC. 103. MEDICAL ADVISORY COMMITTEE.

(a) In General.—The Administrator shall establish a Medical Advisory Committee to provide advice regarding medical issues arising under the statute.

(b) Qualifications.—None of the members of the Medical Advisory Committee shall be individuals who, for any of the 5 years before their appointments, served on and received income from a panel or other body producing a recommendation regarding the assignment of an asbestos-related disease.

(c) Compensation.—Notwithstanding any limitation otherwise established under section 3109 of title 5, United States Code, the members of the Medical Advisory Committee who provide expert advice regarding medical issues shall be paid per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 104. CLAIMANT ASSISTANCE.

(a) Establishment.—Not later than 180 days after the enactment of this Act, the Administrator shall establish a comprehensive asbestos claimant assistance program to—

(1) provide assistance to potential claimants about the availability of benefits for eligible claimants under this Act, and the procedures for filing claims and for obtaining assistance in filing claims;

(2) provide assistance to potential claimants in preparing and submitting claims, including assistance in obtaining the documentation necessary to support a claim;

(3) respond to inquiries from claimants and potential claimants;

(4) provide training with respect to the applicable procedures for the preparation and filing of claims to persons who provide assistance to claimants; and

(5) provide for the establishment of a website where claimants may access relevant forms and information.

(b) Claims Assistance.—The claimant assistance program shall—

(1) provide assistance in filling claims and with the preparation of necessary forms and information;

(2) provide for the establishment of resource centers in areas where there are determined to be large concentrations of potential claimants. These centers shall be located, to the extent feasible, in facilities of the Department of Labor or other Federal agencies.

(c) Claims Assistance.—The claimant assistance program may be carried out in part through contracts with labor organizations, community-based organizations, and other entities which represent or provide services to potential claimants, except that such organizations may not have a financial interest in the outcome of claims filed with the Office.

(d) Claimants.—The Administrator shall provide assistance to claimants regarding legal representation issues.

(2) List of Qualified Attorneys.—As part of the program, the Administrator shall maintain a roster of qualified attorneys who have agreed to provide pro bono services to asbestos claimants under rules established by the Administrator. The claimants shall not be required to use the attorneys listed on such roster.

(e) Notice to Administrator.—The Administrator shall provide asbestos claimants with notice of, and information relating to—

(i) pro bono legal assistance available to those claimants; and

(ii) any limitations on attorneys fees for claims filed under this title.

(f) Duties.—Members of a Physicians Panel shall—

(1) make such medical determinations as are required to be made by Physicians Panels under section 121; and

(2) perform such other functions as required under this Act.

(g) Compensation.—Notwithstanding any limitation otherwise established under section 3109 of title 5, United States Code, the members of a Physicians Panel who, for any of the 5 years before and during their appointments, earned more than 15 percent of their income by serving in matters related to asbestos litigation shall be paid per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 105. PHYSICIANS PANELS.

(a) Appointment.—The Administrator shall, in accordance with section 3109 of title 5, United States Code, appoint physicians with experience and competency in diagnosing asbestos-related diseases to be available to serve on Physicians Panels, as necessary to carry out this Act.

(b) Formation of Panels.—

(1) In General.—The Administrator shall—

(i) publicize and provide information to potential claimants concerning legal representation issues.

(ii) board-certified in pulmonary medicine, occupational medicine, internal medicine, oncology, or pathology; and

(iii) an attorney licensed in any State; and

(ii) perform such other functions as the Administrator determines necessary for the efficient conduct of the medical review process under section 121; and

(c) Exigent Health Claims.—

(1) In General.—The Administrator shall periodically determine necessary for the efficient conduct of the medical review process under section 121; and

(2) Provision of Subsection (a) shall be modified to provide for an expedient medical review process.

SEC. 106. PROGRAM STARTUP.

(a) Interim Regulations.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate interim regulations and procedures for the processing of claims and with financial matters relating to the operation of the Fund under title II, including procedures for the expediting of exigent health claims.

(b) Interim Personnel.—The Secretary of Labor and the Assistant Secretary of Labor for the Employment Standards Administration may make available to the Administrator on a temporary basis such personnel and other resources as may be necessary to facilitate the expeditious startup of the program. The Administrator may in addition contract with individuals or entities having relevant experience to assist in the expeditious startup of the program. Such relevant experience shall include, but not be limited to, experience with the review of workers’ compensation, occupational disease, or similar claims and with financial matters relevant to the operation of the program.

(c) Exempt Health Claims.—

(1) In General.—The Administrator shall develop procedures to provide for an expedited process to categorize, evaluate, and pay exempt health claims. Such procedures shall include, pending promulgation of final regulations, adoption of interim regulations exempt health claims.

(2) Eligible Exempt Health Claims.—A claim shall qualify for treatment as an exempt health claim if the claimant is living and the claimant provides—

(A) a diagnosis of mesothelioma meeting the requirements of section 121(d)(10); or

(B) a declaration or affidavit, from a physician who has examined the claimant within 120 days before the date of such declaration or affidavit, that the physician has diagnosed the claimant as having an asbestos-related disease and that such diagnosis is consistent with the diagnosis of mesothelioma meeting the requirements of section 121(d)(10); or

(C) a declaration or affidavit, from a physician who has examined the claimant 90 days after the date of such declaration or affidavit, that the physician has diagnosed the claimant as having a life expectancy of less than 1 year.

(3) Additional Exempt Health Claims.—The Administrator may, in final regulations promulgated under section 101(c), designate additional categories of claims that qualify as exempt health claims under this subsection.

(4) Claims Facility.—To facilitate the prompt payment of exempt health claims, the Administrator shall contract with a claims facility, which shall maintain eligibility and priority medical criteria under section 121, enter into settlement agreements with claimants. In the absence of an offer of settlement as provided under section 121, the Secretary of Labor may order that a claimant make a claim to that facility. The claims facility shall receive the claimant’s submissions and
evaluate the claim in accordance with sub-
titles B and C. The claims facility shall then submit the file to the Administrator for pay-
ment in accordance with subtitle D. This sub-
section shall apply only to exceptional medical claims under section 121(f). A claim-
ant may appeal any decision at a claims fa-
cility with the Administrator in accordance with section 131.

(5) AUTHORIZATION FOR CONTRACTS WITH CLAIMS FACILITIES.—The Administrator shall, in final regu-
lations promulgated under section 101(c), designate categories of claims to be handled on an expedited basis as a result of extreme financial hardship.

(b) EXTREME FINANCIAL HARDSHIP CLAIMS.—The Administrator shall, in final regu-
lations promulgated under section 101(c), designate categories of claims to be handled on an expedited basis as a result of extreme financial hardship.

(c) INTERIM ADMINISTRATOR.—Until an Ad-
ministrator is appointed and confirmed under subsection (b), the responsibilities of the Administrator under this Act shall be performed by the Assistant Secretary of Labor for the Employment Standards Admin-
istration.

(d) AUTHORIZATION FOR CONTRACTS WITH CLAIMS FACILITIES.—The Administrator may enter into contracts with claims facilities for the processing of claims (except for ex-
ceptional medical claims) in accordance with this title.

(4) PROCEDURES FOR SETTLEMENT OF EXI-
GENT HEALTH CLAIMS.—The Administrator shall, in final regu-
lations promulgated under section 101(c), designate categories of claims to be handled on an expedited basis as a result of extreme financial hardship.

(e) INTERIM ADMINISTRATOR.—Until an Ad-
ministrator is appointed and confirmed under subsection (b), the responsibilities of the Administrator under this Act shall be performed by the Assistant Secretary of Labor for the Employment Standards Ad-
ministration.

(f) EXTREME FINANCIAL HARDSHIP CLAIMS.—The Administrator shall, in final regu-
lations promulgated under section 101(c), designate categories of claims to be handled on an expedited basis as a result of extreme financial hardship.

(g) ISSUANCE AND ENFORCEMENT OF ORDERS.—The Administrator may issue and enforce orders under section 134, together with copies of all settle-
ment agreements and related documents suf-
ficient to show the accuracy of that amount;

(h) ALL INFORMATION.—When requested by the Administrator in support of a claim under sections 115 and 121; and

(iii) a certification by the claimant that the information provided is true and com-
plete.

(iv) CERTIFICATION.—The certification pro-
voked may be subject to the same penalties for false or misleading statements that would be applicable with re-
gard to information provided to the Adminis-
trator in support of a claim under this sub-
section.

(v) OFFER OF JUDGMENT.—Within 30 days af-
after service of a complete set of the infor-
mation described in clause (iii), any defend-
ant may make an offer to settle the claim by an offer of judgment. Any offer made by any defendant individually, or by any defendants jointly, equals or exceeds 100 percent of what the claimant would re-
ceive under the Fund, the claimant shall ac-
cept such offer and release any outstanding asbestos claims.

(vi) LUMP SUM PAYMENT.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(vii) RECOVERY OF COSTS.—Any defendant who accepts an offer of judgment shall be entitled to recover costs of settlement from the other defendant.

(viii) TRANSFER OF ASBESTOS CLAIMS.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(ix) CERTIFICATION.—The certification pro-
voked may be subject to the same penalties for false or misleading statements that would be applicable with re-
gard to information provided to the Adminis-
trator in support of a claim under this sub-
section.

(x) OFFER OF JUDGMENT.—Within 30 days af-
after service of a complete set of the infor-
mation described in clause (iii), any defend-
ant may make an offer to settle the claim by an offer of judgment. Any offer made by any defendant individually, or by any defendants jointly, equals or exceeds 100 percent of what the claimant would re-
ceive under the Fund, the claimant shall ac-
cept such offer and release any outstanding asbestos claims.

(xi) LUMP SUM PAYMENT.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(xii) RECOVERY OF COSTS.—Any defendant who accepts an offer of judgment shall be entitled to recover costs of settlement from the other defendant.

(xiii) TRANSFER OF ASBESTOS CLAIMS.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(xiv) CERTIFICATION.—The certification pro-
voked may be subject to the same penalties for false or misleading statements that would be applicable with re-
gard to information provided to the Adminis-
trator in support of a claim under this sub-
section.

(xv) OFFER OF JUDGMENT.—Within 30 days af-
after service of a complete set of the infor-
mation described in clause (iii), any defend-
ant may make an offer to settle the claim by an offer of judgment. Any offer made by any defendant individually, or by any defendants jointly, equals or exceeds 100 percent of what the claimant would re-
ceive under the Fund, the claimant shall ac-
cept such offer and release any outstanding asbestos claims.

(xvi) LUMP SUM PAYMENT.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(xvii) RECOVERY OF COSTS.—Any defendant who accepts an offer of judgment shall be entitled to recover costs of settlement from the other defendant.

(xviii) TRANSFER OF ASBESTOS CLAIMS.—Any accepted offer of judgment shall be payable within 30 days after the service of a complete set of the infor-
mation described in clause (iii).

(xix) CERTIFICATION.—The certification pro-
voked may be subject to the same penalties for false or misleading statements that would be applicable with re-
gard to information provided to the Adminis-
trator in support of a claim under this sub-
section.

(x) DEFENDANT OFFER.—If a claimant does not make an offer of judgment under subpara-
graph (A), the defendant may elect to seek an offer of judgment according to the provi-
sions of this paragraph, except that a claimant shall not be required to accept that offer. The claimant shall accept or reject the offer within 20 days.

(3) CLAIMS FACILITY.—If a claimant does not make an offer of judgment under subpara-
graph (A), the pending claim is stayed for 9 months after the date of enactment of this Act.

(i) DEFENDANT OFFER.—If a claimant does not make an offer of judgment under subpara-
graph (A), the defendant may elect to seek an award of the Fund through the claims fa-
cility under section 106(c)(4).

(4) CONTINUANCE OF CLAIMS.—If, after 9 months after the date of enactment of this Act, the Administrator cannot certify to Congress that the Fund is operational and paying exigent health claims at a reasonable rate, the claimant shall accept or reject the offer within 20 days.

(3) CLAIMS FACILITY.—If a claimant does not make an offer of judgment under subpara-
graph (A), the pending claim is stayed for 9 months after the date of enactment of this Act. For exigent claims filed after the date of enactment of this Act, by claimants who do not elect to seek an offer of judgment under subparagraph (A), the pending claim is stayed for 9 months after the date the claim is filed, unless during that period the Administrator can cer-
tify to Congress that the Fund is operational and paying all valid claims at a reasonable rate, any person with a non-exigent asbestos claim may pursue the claim in the Federal district court or State court located within—

(i) the State of residence of the claimant; or

(ii) the State in which the asbestos expo-

sure arose.

(B) DEFENDANTS NOT FOUND.—If any defend-
ant cannot be found in the State described in clause (i) or (ii) of subparagraph (A), the claim may be pursued in the Federal district court or State court located within any State in which the defendant may be found.

(C) DETERMINATION OF MOST APPROPRIATE FORUM.—If a person alleges that the asbestos exposure occurred in more than 1 county (or Federal district), the trial court shall deter-
mine which State and county (or Federal dis-
trict) is the most appropriate forum for the proceeding.

If the court determines that another forum would be the most appropriate forum for a claim, the court shall dismiss the claim. Any otherwise applicable statute of limitations shall be tolled beginning on the date the claim was filed and ending on the date the claim is dismissed under this sub-
paragraph.

(D) STATE VENUE REQUIREMENTS.—Nothing in this paragraph shall preempt or supersede any State’s law relating to venue require-
ments within that State which are more re-
strictive.

(E) CREDIT OF CLAIM AND EFFECT OF OPER-
ATIONAL OR NONOPERATIONAL FUND.—
(1) CREDIT OF CLAIM.—If an asbestos claim is pursued in Federal or State court in accordance with this paragraph, any recovery by the claimant shall be a collateral source compensation for purposes of section 134.

(2) NONOPERATIONAL FUND.—If the Administrator subsequently certifies to Congress that the Fund has become operational and paying all valid asbestos claims at a reasonable rate, any claim in a civil action in Federal or State court that is not actually on trial before a judge which has been impaneled and at which evidence has commenced, but before its deliberation, or before a judge and is at the presentation of evidence, shall be extinguished, and any recovery thereon shall be prohibited.

(3) EFFECT OF LIMITATIONS.—

(A) IN GENERAL.—If, on the date of enactment of this Act, an asbestos claimant has any timely filed asbestos claim that is preempted under subsection (a) of this section, the Administrator shall file a claim under this section within 5 years after such date of enactment, or any claim relating to that injury, and any other asbestos claim related to that injury shall be extinguished, and recovery thereon shall be prohibited.

(B) SPECIAL RULE.—For purposes of this paragraph, a claim shall not be treated as pending with a trust established under title 11, United States Code, solely because a claimant whose claim was previously compensated by the administrator subsequently certifies to Congress that the Fund has become operational and paying all valid asbestos claims at a reasonable rate, any asbestos claims that have a stay may be filed or reinstated.

SEC. 107. AUTHORITY OF THE ADMINISTRATOR.

The Administrator may, in pursuit of the purposes of this Act, and in accordance with the jurisdiction of the Administrator under this Act, make—

(1) issue subpoenas for and compel the attendance of witnesses within a radius of 200 miles;

(2) administer oaths;

(3) examine documents, and other evidence; and

(4) request assistance from other Federal agencies with the performance of the duties of the Administrator under this Act.

Subtitle B—Asbestos Disease Compensation Procedures

SEC. 111. ESSENTIAL ELEMENTS OF ELIGIBLE CLAIM.

To be eligible for an award under this Act for an asbestos-related disease or injury, an individual shall—

(1) file a claim in a timely manner in accordance with section 113; and

(2) prove, by a preponderance of the evidence, that the claimant suffers from an eligible disease or condition, as demonstrated by evidence that meets the requirements established under subtitle C.

SEC. 112. GENERAL RULE CONCERNING NO-FAULT COMPENSATION.

An asbestos claimant shall not be required to demonstrate that the asbestos-related injury which the claim is based on is being made resulted from the negligence or other fault of any other person.

SEC. 113. FILING OF CLAIMS.

(a) WHO MAY SUBMIT.—

(1) IN GENERAL.—Any individual who has suffered from a disease or condition that is believed to meet the requirements established under subtitle C (or the personal representative of the individual, if the individual is deceased or incompetent) may file a claim with the Office for an award with respect to such injury.

(2) DEFINITION.—In this Act, the term "personal representative" shall have the same meaning as that term is defined in section 104.4 of title 28 of the Code of Federal Regulations, as in effect on December 31, 2004.

(b) LIMITATION.—A claim may not be filed by any person seeking contribution or indemnity.

(b) STIPENDS.—

(1) IN GENERAL.—Exception as otherwise provided in this Act, if an individual who fails to file a claim with the Office under this section within 5 years after the date on which the individual first—

(A) received a medical diagnosis of an eligible disease or condition as provided for under this subtitle and subtitle C; or

(B) discovered facts that would have led a reasonable person to obtain a medical diagnosis with respect to an eligible disease or condition, any claim related to that injury, and any other asbestos claim related to that injury, shall be extinguished, and any recovery thereon shall be prohibited.

(C) EFFECT OF LIMITATIONS.—

(A) IN GENERAL.—If, on the date of enactment of this Act, an asbestos claimant has any timely filed asbestos claim that is preempted under subsection (a) of this section, the Administrator shall file a claim under this section within 5 years after such date of enactment, or any claim relating to that injury, and any other asbestos claim related to that injury shall be extinguished, and recovery thereon shall be prohibited.

(B) SPECIAL RULE.—For purposes of this paragraph, a claim shall not be treated as pending with a trust established under title 11, United States Code, solely because a claimant whose claim was previously compensated by the Administrator subsequently certifies to Congress that the Fund has become operational and paying all valid asbestos claims at a reasonable rate, any asbestos claims that have a stay may be filed or reinstated.

SEC. 104.1 DETERMINATION OF ELIGIBILITY.

The Administrator shall determine eligibility for an award under this Act on the basis of information submitted by the claimant.

SEC. 119. PROCEDURES FOR CLAIMS.

(a) IN GENERAL.—The Administrator shall not be required to determine eligibility for an asbestos-related disease or injury to which the claim is being made until the claim is received by the Office, which—

(1) the name, social security number, gender, date of birth, and, if applicable, date of death of the claimant;

(2) information relating to the identity of dependents and beneficiaries of the claimant;

(3) an employment history sufficient to establish required asbestos exposure, accompanied by social security or other payment records or a signed release permitting access to such records;

(4) a description of the asbestos exposure of the claimant, including, to the extent known, information on the site, or location of exposure, and duration and intensity of exposure;

(5) a description of the tobacco product use history of the claimant, including frequency and duration;

(6) an identification and description of the asbestos-related diseases or conditions of the claimant, accompanied by a written report of the claimant's physical diagnoses and x-ray films, and other test results necessary to establish eligibility for an award under this Act;

(7) a description of any prior or pending civil action or other claim brought by the claimant for asbestos-related injury or any asbestos claim related to that injury, including an identification of any recovery of compensation or damages through settlement, judgment, or otherwise; and

(8) for any claimant who is or is not a smoker or an ex-smoker, as defined in section 131, for purposes of an award under Malignant Level VI, Malignant Level VII, or Malignant Level VIII, evidence to support the assertion of nonsmoking or ex-smoking, including relevant medical records.

(b) DATES OF FILINGS.—A claim shall be considered to be filed on the date that the claimant mails the claim to the Office, as determined by postmark, or on the date that the claim is received by the Office, whichever is the earliest determinable date.

(c) INCOMPLETE CLAIMS.—If a claim filed under subsection (a) is incomplete, the Administrator shall notify the claimant of the information necessary to complete the claim and inform the claimant of such services as may be available through the Claimant Assistance Program established under section 104 to assist the claimant in completing the claim. Any time periods for the processing of the claim shall be suspended until such time as the claimant submits the information necessary to complete the claim. If such information is not received within 1 year after the date of such notification, the claim shall be dismissed.

SEC. 114. ELIGIBILITY DETERMINATIONS AND CLAIM AWARDS.

(a) IN GENERAL.—

(1) REVIEW OF CLAIMS.—The Administrator shall, in accordance with this section, determine whether each claim filed under the Fund or claims facility satisfies the requirements for eligibility for an award under this Act and, if so, the value of the award. In making such determination, the Administrator shall consider the claim presented by the claimant, the factual and medical evidence submitted by the claimant in support of the claim, the recommendations of any Physicians Panel to which a claim is referred under section 121, and the results of such investigation as the Administrator may deem necessary to determine whether the claim satisfies the criteria for eligibility established by this Act.

(2) ADDITIONAL EVIDENCE.—The Administrator may require the submission of medical evidence in addition to the minimum requirements of section 113(2) if necessary or appropriate to make a determination of eligibility for an award. In any case in which the cost of obtaining such additional information or testing shall be borne by the Office.

(b) PROPOSED DECISION.—Not later than 90 days after the filing of a claim, the Administrator shall provide the claimant (and the claimant’s representative) a proposed decision, accepting or denying in whole or in part and specifying the amount of the proposed award, if any. The proposed decision shall be in writing, shall contain findings of fact and law, and shall contain an explanation of the procedure for obtaining review of the proposed decision.

(c) PAYMENTS IF NO TIMELY PROPOSED DECISION.—If the Administrator has received a
in this Act.

(1) DEFINITIONS.—
   (1) IN GENERAL.—If the period of time for requesting review of the proposed decision expires and no request has been filed, or if the Administrator issues a final decision to the contrary, the Administrator shall issue a final decision. If such decision materially differs from the proposed decision, the Administrator shall conduct a new review of the decision under subsection (d).
   (2) TIME AND CONTENT.—If the claimant requests a review of all or part of the proposed decision, the Administrator shall issue a final decision on the claim not later than 180 days after the request for review is received, if the claimant requests a hearing, or not later than 90 days after the request for review is received, if the claimant requests review of the written record. Such decision shall be in writing and contain findings of fact and conclusions of law.
   (f) REPRESENTATION.—A claimant may authorize an attorney or other individual to represent him or her in any proceeding under this Act.

SEC. 115. MEDICAL EVIDENCE AUDITING PROCEDURES.

(a) IN GENERAL.—Any claimant not satisfied with a proposed decision of the Administrator for subsection (b) shall be entitled, on written request made within 90 days after the date of the issuance of the decision, to a hearing on the claim by a representative of the Administrator. At the hearing, the claimant shall be entitled to present oral evidence and written testimony in further support of that claim.

(b) CONDUCT OF HEARING.—When practicable, the hearing will be set at a time and place convenient for the claimant.

(c) REQUEST FOR SUBPOENAS.—
   (1) IN GENERAL.—A claimant may request a subpoena to procure evidence in such a way that it is within the discretion of the representative of the Administrator. The representative may issue subpoenas for the attendance and testimony of witnesses, and for the production of books, records, correspondence, papers, or other relevant documents. Subpoenas are issued for documents only if they are relevant and cannot be obtained by other means, and for witnesses only where oral testimony is the best way to ascertain the facts.
   (ii) REJECT.—The claimant may request a subpoena only as part of the hearing process. To request a subpoena, the requester shall—
      (A) submit the request in writing and send it to the Administrator as early as possible, but no later than 30 days after the date of the original hearing request; and
      (B) explain why the testimony or evidence is directly relevant to the issues at hand, and a subpoena is the best method or opportunity to obtain such evidence because there are no other means by which the documents or testimony can be obtained.
   (iii) FEES AND MILEAGE.—Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage allowed and paid to witnesses in the district courts of the United States. Such fees and mileage shall be paid from the Fund.

(d) REVIEW OF WRITTEN RECORD.—In lieu of a hearing, the representative of the Administrator, and a subpoena is the best method or opportunity to obtain such evidence because there are no other means by which the documents or testimony can be obtained.

(e) SMOKING ASSESSMENT.—
   (1) IN GENERAL.—If the proposed decision of the Administrator has the option, on written request made within 90 days after the date of the issuance of the decision, of obtaining a review of the written record by a representative of the Administrator. If such review is requested, the claimant shall be afforded an opportunity to submit any written evidence or argument which the claimant believes relevant.

(1) RECORDS AND DOCUMENTS.—To aid in the assessment of the accuracy of claimant representations as to their smoking status for purposes of determining eligibility and payment under Malignant Level VI, Malignant Level VII, or Malignant Level VIII, and exceptional medical claims, the Administrator shall have the authority to obtain relevant records and documents, including—
   (i) records of past medical treatment and evaluation;
   (ii) affidavits of appropriate individuals;
   (iii) applications for insurance and support materials; and
   (iv) employer records of medical examinations.

(2) CONSENT.—The claimant shall provide consent for the Administrator to obtain such records and documents where required.

(f) REPRESENTATION.—A claimant may authorize an attorney or other individual to represent him or her in any proceeding under this Act.

SEC. 116. REVIEW OF PROPOSED DECISIONS.

(a) IN GENERAL.—If the Administrator determines that an audit conducted in accordance with the methods developed under paragraph (2) agrees with the quality grading or ILO level assigned under paragraph (1), the Administrator shall have a right to appeal such determination under procedures issued by the Administrator.

(b) REVIEW.—The frequency of review of records and documents submitted under this subsection shall be subject to criminal prosecution or civil penalties as provided under section 1998 of title 18, United States Code (as added by this Act) and section 101(c)(2).

Subtitle C—Medical Criteria

SEC. 121. MEDICAL CRITERIA REQUIREMENTS.

(a) DEFINITIONS.—
   (1) ASBESTOS DETERMINED BY PATHOLOGY.—The term “asbestosis determined by pathology” means indications of asbestosis based on the pathological grading system for asbestosis described in the Special Issues of the Archives of Pathology and Laboratory Medicine, “Asbestos-associated Diseases”, Vol. 106, No. 11, App. 3 (October 8, 1982).

   (B) bilateral asbestos-related nonmalignant disease.—The term “bilateral asbestos-related nonmalignant disease” means a diagnosis of bilateral asbestos-related nonmalignant disease based on an x-ray reading of 1/0 or higher based on the ILO grade scale;
   (B) bilateral pleural plaques;
   (C) bilateral pleural thickening; or
   (D) bilateral pleural calcification.

   (3) BILATERAL PLEURAL DISEASE OF B2.—The term “bilateral pleural disease of B2” means a chest wall pleural thickening or plaque with a maximum width of at least 5 millimeters and a total length of at least 1/4 of the projection of the lateral chest wall.

   (C) CERTIFIED B-READER.—The term “certified B-reader” means an individual who is certified by the National Institute of Occupational Safety and Health and whose certificate is certified by the National Institute of Occupational Safety and Health.

   (5) DIFFUSE PLEURAL THICKENING.—The term “diffuse pleural thickening” means blunting of either costophrenic angle and bilateral pleural plaque or bilateral pleural thickening.

   (6) DLCO.—The term “DLCO” means the single-breath diffusing capacity of the lung

complete claim and has not provided a proposed decision to the claimant under subsection (b) within 90 days after the filing of the claim, the claim shall be deemed accepted and a final decision shall be entered under section 133(a)(2). If the Administrator subsequently refuses the claim the Administrator shall not be entitled to further decisions under section 133. If the Administrator subsequently rejects the claim in part, the Administrator shall adjust future payments due the claimant under section 133 accordingly.

In no event may the Administrator recover amounts properly paid under this section from a claimant.

(4) PENALTY FOR FALSE STATEMENTS.—Any false information submitted under this subsection shall be subject to criminal prosecution or civil penalties as provided under section 1998 of title 18, United States Code (as added by this Act) and section 101(c)(2).
(carbon monoxide) technique used to measure the volume of carbon monoxide transferred from the alveoli to blood in the pulmonary capillaries for each unit of driving pressure, expressed as millimeters of mercury.

(7) FEV1.—The term "FEV1" means forced expiratory volume in 1 second, which is the maximal volume of air expired in 1 second during the spirometric test for forced vital capacity.

(8) FVC.—The term "FVC" means forced vital capacity, which is the maximal volume of air that can be forcibly expired from a position of maximal inspiration.

(9) ILO GRADE.—The term "ILO grade" means the radiological ratings for the presence of asbestos in the lung as determined by chest x-ray, all as established from time to time by the International Labor Organization.

(10) LOWER LIMITS OF NORMAL.—The term "lower limits of normal" means the fifth percentile of healthy populations as defined in the American Thoracic Society statement on lung function testing (Amer. Rev. Respir. Disease 1991, 144:1392-1398) and any future revision of the same statement.

(11) NONSMOKER.—The term "nonsmoker" means a claimant who—

(A) has never smoked;

(B) has smoked fewer than 100 cigarettes or the equivalent amount of other tobacco products during the claimant's lifetime. The claimant's lifetime is determined by the chest x-ray, all as established from time to time by the International Labor Organization.

(12) PO.—The term "PO" means the partial pressure (tension) of oxygen, which measures the amount of dissolved oxygen in the blood.

(13) PULMONARY FUNCTION TESTING.—The term "pulmonary function testing" means spirometry testing that is in material compliance with the quality criteria established by the American Thoracic Society and is performed on equipment which is in material compliance with the standards of the American Thoracic Society for technical quality and calibration.

(14) SUBSTANTIAL OCCUPATIONAL EXPOSURE TO ASBESTOS.—

(A) IN GENERAL.—The term "substantial occupational exposure" means employment in an industry and an occupation where for a substantial portion of a normal work year for that claimant—

(i) handled raw asbestos fibers;

(ii) fabricated asbestos-containing products so that the claimant in the fabrication process breathed raw asbestos fibers;

(iii) altered, repaired, or otherwise worked with an asbestos-containing product such that the claimant was exposed on a regular basis to asbestos fibers; or

(iv) worked in close proximity to other workers engaged in the activities described under clause (i), (ii), or (iii), such that the claimant was exposed on a regular basis to asbestos fibers.

(B) REGULAR BASIS.—In this paragraph, the term "on a regular basis" means on a frequent or recurring basis.

(15) TLC.—The term "TLC" means total lung capacity, which is the total volume of air in the lung after maximal inspiration.

(16) WEIGHTED OCCUPATIONAL EXPOSURE.—

(A) IN GENERAL.—The term "weighted occupational exposure" means exposure for a period of years calculated according to the exposure weighting formula under subparagraphs (B) through (E).

(B) MODERATE EXPOSURE.—Subject to subparagraph (E), each year that a claimant's primary occupation was substantially involved in activities described in paragraph (A), each year that a substantial portion of a normal work year for that occupation, involved working in areas immediate to where asbestos-containing products were being manufactured, used, or removed under circumstances that involved regular airborne emissions of asbestos fibers, shall count as 1 year of substantial occupational exposure.

(B) FOR DISEASE LEVELS VI through IX, in the case of a claimant who was living at the time the claim was filed—

(i) a physical examination by the claimant's physician providing the diagnosis; or

(ii) a diagnosis of such a malignant asbestos-related disease, as described in this section, by a board-certified pathologist; and

(D) for disease Levels VI through IX, in the case of a claimant who was deceased at the time the claim was filed—

(i) a physical examination by the claimant's physician providing the diagnosis; or

(ii) a diagnosis of such a malignant asbestos-related disease, as described in this section, by a board-certified pathologist; and

(ii) a report from a physician based upon a review of the claimant's medical records.

(3) CREDIBILITY OF MEDICAL EVIDENCE.—To ensure the medical evidence provided in support of a claim is credible and consistent with recognized medical standards regarding testing equipment, testing methodology, and the date of the claimant under this title may be required to submit—

(A) X-rays or computerized tomography;

(B) detailed results of pulmonary function tests;

(C) laboratory tests;

(D) tissue samples;

(E) results of medical examinations;

(F) reviews of other medical evidence; and

(G) medical evidence that complies with recognized medical standards regarding testing equipment, testing methodology, and the date of the claimant under this title may be required to submit—

(i) a diagnosis of such a malignant asbestos-related disease, as described in this section, by a board-certified pathologist; and

(ii) a report from a physician based upon a review of the claimant's medical records.

(1) EXPOSURE PROOF.—To qualify for any disease level, the claimant shall demonstrate—

(A) a minimum exposure to asbestos or asbestos-containing products;

(B) the exposure occurred in the United States, its territories or possessions, or while a United States citizen, while an employee of an entity organized under any Federal, State, or local law, or while a United States citizen while serving on any United States flagged or owned ship, provided the exposure results from such employment or service;

(C) any additional asbestos exposure requirement under this section.

(2) PROOF OF EXPOSURE.—To qualify for asbestos suf- ficient to satisfy the exposure requirements for any disease level may be established by an affidavit of—

(i) a surviving claimant; or

(ii) if the claimant is deceased, a co-worker or a family member, if the affidavit of the claimant, co-worker or family member is supported by other evidence that is reasonably reliable, attesting to the claimant's exposure; and is credible and is not contradicted by other evidence.

(3) AFFIDAVIT.—Exposure to asbestos may alternatively be established by invoices, construction or other similar records, or any other reasonably reliable evidence.

(4) TAKE-HOME EXPOSURE.—

(A) IN GENERAL.—A claimant may alternatively satisfy the medical criteria requirements of this section where a claim is filed by a person who allege their exposure to asbestos was the result of living with a person who, if the claimant had been filed by that person, would have met the exposure criteria for the given disease level, and the claimant lived with such person for the time period necessary to satisfy the exposure requirement, for the claimed disease level.

(B) REVIEW.—Except for claims for disease Level IX (mesothelioma), all claims alleging take-home exposure shall be submitted as an exceptional medical claim under section 1707(b)(2) review by a Physicians Panel.

(4) WAIVER FOR WORKERS AND RESIDENTS OF LIBBY, MONTANA.—Because of the unique nature of the asbestos exposure related to the Libby amphibole mine and mill operations in Libby, Montana, the Administrator shall waive the exposure requirements under this
subtitle for individuals who worked at the vermiculite mining and milling facility in Libby, Montana, or lived or worked within a 20-mile radius of Libby, Montana, for at least 12 consecutive months before December 31, 2004. Claimants under this section shall provide such supporting documentation as the Administrator shall require.

(2) Penalties for False Statements.—

(A) IN GENERAL.—The Administrator shall prescribe rules identifying specific industries, occupations, and time periods during which workers employed in those industries or occupations typically had substantial occupational exposure to asbestos as defined under section 121(a). Until 5 years after the Administrator certifies that the Fund is paying claims at a reasonable rate, the industries, occupations and time periods identified by the Administrator shall at a minimum include those identified in the 2002 Trust Distribution Process of the Manville Personal Injury Settlement Trust as of January 1, 2005, as industries, occupations and time periods in which workers were presumed to have had significant occupational exposure to asbestos. Thereafter, the Administrator may modify or eliminate those exposure presumptions required to be adopted from the Manville Personal Injury Settlement Trust, if there is evidence that demonstrates that typical exposure for workers in such industries and occupations during such time periods did not constitute substantial occupational exposure in asbestos.

(B) CLAIMANTS ENTITLED TO PRESUMPTIONS.—Any claimant who demonstrates through meaningful and credible evidence that such claimant was employed during relevant time periods in industries or occupations identified under subparagraph (A) shall be entitled to a presumption that the claimant had substantial occupational exposure to asbestos during those time periods. That presumption shall not be conclusive, and the Administrator may find that the claimant does not have substantial occupational exposure if other information demonstrates that the claimant did not in fact have substantial occupational exposure during any part of the relevant time periods.

(3) NONMALIGNANT LEVEL III.—To receive Level III compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of bilateral pleural plaques or bilateral pleural thickening or bilateral pleural calcification;

(C) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(D) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(4) NONMALIGNANT LEVEL IV.—To receive Level IV compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(C) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(5) NONMALIGNANT LEVEL V.—To receive Level V compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(C) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(6) NONMALIGNANT LEVEL VI.—To receive Level VI compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(C) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(7) NONMALIGNANT LEVEL VII.—To receive Level VII compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of bilateral pleural plaques or bilateral pleural thickening or bilateral pleural calcification;

(C) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(D) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.

(8) NONMALIGNANT LEVEL VIII.—To receive Level VIII compensation a claimant shall provide—

(A) evidence of a primary lung cancer on the basis of findings by a board certified pathologist;

(B) evidence of 12 or more weighted years of substantial occupational exposure to asbestos; and

(C) supporting medical documentation—

(i) establishing asbestos exposure as a substantial contributing factor in causing the pulmonary condition in question; and

(ii) excluding other more likely causes of that pulmonary condition.
board certified radiologist and confirmed by a board certified radiologist; and
(iii) supporting medical documentation establishing asbestos exposure as a substantial contributing factor causing the lung cancer in question; and 10 or more weighted years of substantial occupational exposure to asbestos.
(B) PHYSICIANS PANEL.—A claimant filing a claim with respect to Level VIII under this paragraph may request that the claim be referred to a Physicians Panel for a determination whether the claimant qualifies for the disease category and relevant smoking status. In making its determination under this subparagraph, the Physicians Panel shall consider the intensity and duration of exposure, smoking history, and the quality of evidence relating to exposure and smoking. Claimants shall bear the burden of producing meaningful and credible evidence of their smoking history as part of their claim submission.
(9) MALIGNANT LEVEL IX.—To receive Level IX compensation, a claimant shall provide—
(A) a diagnosis of malignant mesothelioma disease on the basis of findings by a board certified pathologist; and
(B) credible evidence of identifiable exposure to asbestos resulting from—
(i) occupational exposure to asbestos;
(ii) exposure to asbestos fibers brought into the home of the claimant by a worker occupationally exposed to asbestos;
(iii) exposure to asbestos fibers resulting from living or working in the proximate vicinity of a former asbestos production or deposit site.
(e) INSTITUTE OF MEDICINE STUDY.—Not later than April 1, 2006, the Institute of Medicine of the National Academy of Sciences shall complete a study contracted with the National Institutes of Health of the causal link between asbestos exposure and other cancers, including colorectal, laryngeal, esophageal, pharyngeal, and stomach cancers, except for mesothelioma and lung cancers. The Institute of Medicine shall issue a report on the causation, which shall be transmitted to Congress, the Administrator, the Advisory Committee on Asbestos Disease Compensation or the Medical Advisory Committee, and the Physicians Panels. The Institute of Medicine report shall be binding on the Administrator and the Physicians Panels for purposes of determining whether asbestos exposure is a substantial contributing factor under section 121(d)(6)(B).
(f) EXCEPTIONAL MEDICAL CLAIMS.—
(1) IN GENERAL.—A claimant who does not meet the medical criteria requirements under this section may apply for designation of the claim as an exceptional medical claim.
(2) APPLICABILITY.—When submitting an application for review of an exceptional medical claim, the claimant shall—
(A) the term ‘nonsmoker’ means a claimant who—
(i) never smoked; or
(ii) has smoked fewer than 100 cigarettes or the equivalent of other tobacco products during the claimant’s lifetime; and
(B) the term ‘ex-smoker’ means a claimant who has not smoked during any portion of the 12-year period preceding the diagnosis of lung cancer.
(3) LEVEL IX ADJUSTMENTS.—
(A) IN GENERAL.—If the Administrator determines that the impact of all adjustments under this paragraph on the Fund is cost neutral, the Administrator may—
(i) increase awards for Level IX claimants who are less than 51 years of age with dependent children; and
(ii) decrease awards for Level IX claimants who are at least 65 years of age, in no case shall an award for Level IX be less than $1,000,000.
(B) IMPLEMENTATION.—Before making adjustments under this paragraph, the Administrator shall publish in the Federal Register notice of, and a plan for, making such adjustments.
(4) SPECIAL ADJUSTMENT FOR FELA CASES.—
(A) IN GENERAL.—A claimant who is eligible to bring a claim under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers’ Liability Act, but who is not eligible for a special adjustment under this paragraph.
(B) REGULATIONS.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations relating to special adjustments under this paragraph.

(ii) JOINT PROPOSAL.—Not later than 45 days after the date of enactment of this Act, representatives of railroad management and representatives of railroad labor shall submit to the Administrator a joint proposal for regulations describing the eligibility for and amount of special adjustments under this paragraph. If a joint proposal is submitted, the Administrator shall promulgate regulations based on that proposal.

(iii) ABSENCE OF JOINT PROPOSAL.—If railroad management and railroad labor are unable to agree on a joint proposal within 45 days after the date of enactment of this Act, the benefits prescribed in subparagraph (E) shall be the benefits available to claimants, and the Administrator shall promulgate regulations containing such benefits.

(iv) REVIEW.—The parties participating in the arbitration may file in the United States District Court for the District of Columbia a petition to set aside the Administrator’s order. The court shall have jurisdiction to affirm the order of the Administrator, or, to set it aside, in whole or in part, or it may remand the matter to the Administrator for such further action as it may direct. On such review, the findings of the Administrator shall be conclusive on the parties.

(v) JURISDICTION.—The Administrator shall be the exclusive forum for matters within the scope of this section.

(vi) APPEAL.—Any party to the arbitration shall have the right to appeal the award to the Court of Federal Claims.

(vii) JOINT PROPOSAL.—If a joint proposal is submitted, the Administrator shall file a copy of the proposal with the court.

(5) M EDICAL MONITORING .—An asbestos claimant with asymptomatic exposure, based on the criteria under section 121(d)(1), shall only be eligible for medical monitoring reimbursement as provided under section 132.

(6) A NNUITY.—An asbestos claimant may receive an annual payment for any calendar year equal to the average of the consumer price index for the close of the 12-month period ending on August 31 of such calendar year.

((ii) DEFINITION.—For purposes of clause (i), the term ‘consumer price index’ means the consumer price index published by the Department of Labor.

(D) AMOUNT.—The amount of a special adjustment under this paragraph shall be based on the type and severity of asbestos disease, and shall be 110 percent of the average amount an injured individual with an incurable and terminal asbestos-related disease who are mesothelioma victims and who are alive on the date on which the Administrator receives notice of the eligibility of the claimant. Such payments shall be credited against the first regular payment under the structured payment plan for the claimant.

(E) CREDITORS.—An award under this title shall be a presumption that any award paid by a railroad management and railroad labor is either signable or otherwise transferable under this Act.

(F) MEDICAL MONITORING .—The Administrator shall develop guidelines to provide for medical monitoring reimbursement, and the Guidelines shall include reference to the number of claims made to the Fund and the awards made and scheduled to be paid from the Fund and provided under section 301 of title 11, United States Code.

(3) EXTENSION OF PAYMENT PERIOD.—

(A) IN GENERAL.—The Administrator shall develop guidelines to extend the payment period of an award under subsection (a) to be extended to a 4-year period if such action is warranted in order to preserve the solvency of the Fund.

(B) LIMITATIONS.—No event shall less than 50 percent of an award be paid in the first 2 years of the payment period under this subsection.

(4) ACCELERATED PAYMENTS.—The Administrator shall develop guidelines to provide for accelerated payments to asbestos claimants who are mesothelioma victims and who are alive on the date on which the Administrator receives notice of the eligibility of the claimant. Such payments shall be credited against the first regular payment under the structured payment plan for the claimant.

(5) EXPEDITED PAYMENTS.—The Administrator shall develop guidelines to provide for expedited payments to asbestos claimants in cases of exigent circumstances or extreme hardship caused by asbestos-related injury.

(6) ANNUNTY.—An asbestos claimant may only receive any payments in this Act if the claimant is entitled under this title in the form of an annuity.

(LIMITATION ON TRANSFERABILITY.—A claim filed under this Act shall not be assignable or otherwise transferable under this Act.

(C) CREDITORS.—An award under this title shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt to which such exemption may not be waived.

(D) MEDICARE AS SECONDARY PAYOR.—No award under this title shall be deemed a payment for purposes of section 1902 of the Social Security Act (42 U.S.C. 1395y).

(3) CLAIM ANTEHISTARIES.—An exempt property in asbestos claimant’s bankruptcy case.—If an asbestos claimant files a petition for relief under chapter 11 of title 11, United States Code, no award granted under this Act shall be treated as property of the bankruptcy estate of the asbestos claimant, if such award is in respect of a claim described in section 541(b)(6) of title 11, United States Code.

SEC. 134. REDUCTION IN BENEFIT PAYMENTS FOR CLAIMANTS.

(a) IN GENERAL.—The amount of an award otherwise available to an asbestos claimant not covered by health insurance for an examination by the claimant’s physician, x-ray tests, and pulmonary function tests every 3 years.

(2) REMUNERATION.—The Administrator shall promulgate regulations that establish—

(a) STRUCTURED PAYMENTS.—An asbestos claimant who is entitled to an award shall receive the amount of the award through structured payments from the Fund, made over a period of not less than 10 years after the date of final adjudication of the claim.

(2) PAYMENT PERIOD AND AMOUNT.—There shall be a presumption that any award paid under this subsection shall provide for payment of—

A 40 percent of the total amount in year 1; and
B 30 percent of the total amount in year 2; and
C 30 percent of the total amount in year 3.

(3) EXTENSION OF PAYMENT PERIOD.—

(A) IN GENERAL.—The Administrator shall develop guidelines to extend the payment period of an award under subsection (a) to be extended to a period of 4 years if such action is warranted in order to preserve the solvency of the Fund.

(B) LIMITATIONS.—No event shall less than 50 percent of an award be paid in the first 2 years of the payment period under this subsection.

(4) ACCELERATED PAYMENTS.—The Administrator shall develop guidelines to provide for accelerated payments to asbestos claimants who are mesothelioma victims and who are alive on the date on which the Administrator receives notice of the eligibility of the claimant. Such payments shall be credited against the first regular payment under the structured payment plan for the claimant.

(5) EXPEDITED PAYMENTS.—The Administrator shall develop guidelines to provide for expedited payments to asbestos claimants in cases of exigent circumstances or extreme hardship caused by asbestos-related injury.

(6) ANNUNTY.—An asbestos claimant may only receive any payments in this Act if the claimant is entitled under this title in the form of an annuity.

(LIMITATION ON TRANSFERABILITY.—A claim filed under this Act shall not be assignable or otherwise transferable under this Act.

(C) CREDITORS.—An award under this title shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt to which such exemption may not be waived.

(D) MEDICARE AS SECONDARY PAYOR.—No award under this title shall be deemed a payment for purposes of section 1902 of the Social Security Act (42 U.S.C. 1395y).

(3) CLAIM ANTEHISTARIES.—An exempt property in asbestos claimant’s bankruptcy case.—If an asbestos claimant files a petition for relief under chapter 11 of title 11, United States Code, no award granted under this Act shall be treated as property of the bankruptcy estate of the asbestos claimant, if such award is in respect of a claim described in section 541(b)(6) of title 11, United States Code.

SEC. 134. REDUCTION IN BENEFIT PAYMENTS FOR CLAIMANTS.

(a) IN GENERAL.—The amount of an award otherwise available to an asbestos claimant

(A) 40 percent of the total amount in year 1; and
B 30 percent of the total amount in year 2; and
C 30 percent of the total amount in year 3.

(3) EXTENSION OF PAYMENT PERIOD.—

(A) IN GENERAL.—The Administrator shall develop guidelines to extend the payment period of an award under subsection (a) to be extended to a period of 4 years if such action is warranted in order to preserve the solvency of the Fund.

(B) LIMITATIONS.—No event shall less than 50 percent of an award be paid in the first 2 years of the payment period under this subsection.

(4) ACCELERATED PAYMENTS.—The Administrator shall develop guidelines to provide for accelerated payments to asbestos claimants who are mesothelioma victims and who are alive on the date on which the Administrator receives notice of the eligibility of the claimant. Such payments shall be credited against the first regular payment under the structured payment plan for the claimant.

(5) EXPEDITED PAYMENTS.—The Administrator shall develop guidelines to provide for expedited payments to asbestos claimants in cases of exigent circumstances or extreme hardship caused by asbestos-related injury.

(6) ANNUNTY.—An asbestos claimant may only receive any payments in this Act if the claimant is entitled under this title in the form of an annuity.

(LIMITATION ON TRANSFERABILITY.—A claim filed under this Act shall not be assignable or otherwise transferable under this Act.

(C) CREDITORS.—An award under this title shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt to which such exemption may not be waived.

(D) MEDICARE AS SECONDARY PAYOR.—No award under this title shall be deemed a payment for purposes of section 1902 of the Social Security Act (42 U.S.C. 1395y).

(3) CLAIM ANTEHISTARIES.—An exempt property in asbestos claimant’s bankruptcy case.—If an asbestos claimant files a petition for relief under chapter 11 of title 11, United States Code, no award granted under this Act shall be treated as property of the bankruptcy estate of the asbestos claimant, if such award is in respect of a claim described in section 541(b)(6) of title 11, United States Code.

SEC. 134. REDUCTION IN BENEFIT PAYMENTS FOR CLAIMANTS.

(a) IN GENERAL.—The amount of an award otherwise available to an asbestos claimant
under this title shall be reduced by the amount of collateral source compensation.

(b) EXCLUSIONS.—In no case shall statutory benefits under workers' compensation laws, special payments made under sections 131(b)(3), occupational or total disability benefits under the Railroad Retirement Act (45 U.S.C. 201 et seq.), sickness benefits under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), and veterans' benefits programs be deemed as collateral source compensation for purposes of this section.

SEC. 135. CLAIMS NOT AFFECTED BY PAYMENT OF AWARDS.
(a) IN GENERAL.—The payment of an award under this title shall not affect any claim of an asbestos claimant against—

(i) an insurance carrier with respect to insurance; or

(ii) against any person or governmental entity with respect to worker's compensation, healthcare, or disability payments.

(b) NO EFFECT ON CLAIMS.—The payment of an award to an asbestos claimant under section 135 shall not affect any claim of an asbestos claimant against—

(i) an insurance carrier with respect to insurance; or

(ii) against any person or governmental entity with respect to worker's compensation, healthcare, or disability payments.

TITLE II—ASBESTOS INJURY CLAIMS REORGANIZATION FUND
Subtitle A—Asbestos Defendants Funding Allocation

SEC. 201. DEFINITIONS.
In this subtitle, the following definitions shall apply:

(1) AFFILIATED GROUP.—The term ‘affiliated group’—

(A) means a defendant participant that is an ultimate parent of any person whose entire beneficial interest is directly or indirectly owned, on December 31, 2002, directly or indirectly, of at least 1 other person; and

(B) whose entire beneficial interest was not the sole or precipitating cause of the entity’s chapter 11 filing.

(2) CLASS ACTION TRUST.—The term ‘class action trust’—

(A) means a trust or similar entity established by a defendant participant to hold assets for the benefit of asbestos claimants who have been subject to indemnification, contribution, settlement, or any activity related to insurance matters for asbestos-related liabilities and, together with all of their direct or indirect majority-owned subsidiaries, has been approved by a final judgment issued under section 105 of title 11, United States Code, or a final decree closing the estate under section 524(h) of title 11, United States Code, established in conjunction with an order of reorganization or confirmation of a plan of reorganization that does not comply with the requirements of this Act, including a trust and channeling injunction under section 524(g) of title 11, United States Code.

(3) DEPENDENT.—The term ‘dependent’—

(A) means—

(i) a sum in settlement, judgment, defense, or indemnity to or on behalf of any person at any time before December 31, 2002, a sum in settlement, judgment, defense, or indemnity to or on behalf of a person at any time before December 31, 2002, a sum in settlement, judgment, defense, or indemnity to or on behalf of a person at any time before December 31, 2002, in settlement, judgment, defense, or indemnity costs related to all asbestos claims against that person;

(B) includes payments made by any asbestos defendants, insured carriers to or for the benefit of such person or on such person's behalf with respect to such asbestos claims, except as provided in section 204(c); and

(C) shall not include any payment made by a person in connection with or as a result of changes in insurance reserves required by the requirements of this Act or any activity related to insurance coverage matters for asbestos-related liabilities;

(D) shall not include any payment made by or on behalf of persons who are or were common carriers by railroad for asbestos claims brought under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the ‘Morgan Act’ or as a result of operations as a common carrier by railroad, including settlement, judgment, defense, or indemnity costs associated with these claims.

(4) TRUST.—The term ‘trust’ means any trust, as described in sections 524(g)(2)(B)(i) or 524(h) of title 11, United States Code, or established in conjunction with an order issued under section 105 of title 11, United States Code, established or formed under the terms of a chapter 11 plan of reorganization, which in whole or in part provides compensation for asbestos claims.

(5) ULTIMATE PARENT.—The term ‘ultimate parent’—

(A) means—

(i) a sum in settlement, judgment, defense, or indemnity to or on behalf of any person at any time before December 31, 2002, a sum in settlement, judgment, defense, or indemnity costs related to all asbestos claims against that person;

(B) includes payments made by any asbestos defendants, insured carriers to or for the benefit of such person or on such person's behalf with respect to such asbestos claims, except as provided in section 204(c); and

(C) shall not include any payment made by a person in connection with or as a result of changes in insurance reserves required by the requirements of this Act or any activity related to insurance coverage matters for asbestos-related liabilities; and

(D) shall not include any payment made by or on behalf of persons who are or were common carriers by railroad for asbestos claims brought under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the ‘Morgan Act’ or as a result of operations as a common carrier by railroad, including settlement, judgment, defense, or indemnity costs associated with these claims.

SEC. 202. AUTHORITY AND TIERS.

(a) LIABILITY FOR PAYMENTS TO THE FUND.

(1) IN GENERAL.—Defendant participants shall be liable for payments to the Fund in accordance with this section based on tiers and sub-tiers assigned to defendant participants.

(2) AGGREGATE PAYMENT OBLIGATIONS.—Notwithstanding any other provision of this Act, all defendant that, together with all of their direct or indirect majority-owned subsidiaries, have prior asbestos expenditures less than $1,000,000 may proceed with the filing of reorganization and confirmation of a plan of reorganization that does not comply with the requirements of this Act, including a trust and channeling injunction under section 524(g) of title 11, United States Code. Any asbestos claim made in conjunction with a plan of reorganization allowable under the preceding sentence shall be subject to section 403(d) of this Act.

(b) TIER I.—Tier I shall include all debtors that, together with all of their direct or indirect majority-owned subsidiaries, have prior asbestos expenditures greater than $1,000,000.

(c) TREATMENT OF TIER I BUSINESS ENTITIES IN BANKRUPTCY.

(1) DEFINITION.—In this subsection, the term ‘bankruptcy business entity’ means a person that is not a natural person that—

(A) filed a petition for relief under chapter 11 of title 11, United States Code, before January 1, 2003;

(B) has not substantially consummated, as such term is defined under section 1101(2) of title 11, United States Code, a plan of reorganization as of the date of enactment of this Act; and

(C) the bankruptcy court presiding over the business entity’s case determines, after notice and a hearing upon motion filed by the entity within 30 days after the date of enactment of this Act, that asbestos liability was the sole or precipitating cause of the entity’s chapter 11 filing.

(2) MOTION AND RELATED MATTERS.—A motion under subparagraph (A)(iii) shall be supported by—

(A) an affidavit or declaration of the chief executive officer, chief financial officer, or chief legal officer of the business entity; and

(B) copies of the entity’s public statements and securities filings made in connection with the entity’s filing for chapter 11 protection.

Notice of such motion shall be as directed by the bankruptcy court, and the hearing shall be limited to consideration of the question of whether or not asbestos liability was the sole or precipitating cause of the entity’s chapter 11 filing. The bankruptcy court shall have a hearing and make its determination with respect to the motion within 60 days after the date the motion is filed. In making its determination, the bankruptcy court shall take into account the affidavits, public statements, and securities filings, and other information, if any, submitted by the entity and all other facts and circumstances presented by an objective party. A review of this determination shall be an expedited appeal and limited to whether the decision was against the weight of the evidence. Any appeal of a determination shall be expedited by the United States Circuit Court of Appeals for the circuit in which the bankruptcy court is located.
(2) PROCEEDING WITH REORGANIZATION PLAN.—A bankrupt business entity may proceed with the filing, solicitation, confirmation, and consummation of a plan of reorganization only if the bankruptcy court finds that the plan complies with all applicable requirements of this Act, including a trust and channeling injunction described in section 524(g) of title 11, United States Code, notwithstanding the provisions of section 201 of this Act, if the bankruptcy court makes a favorable determination under paragraph (1) or (2), unless the bankruptcy court's determination is overruled on appeal and all appeals are final. Such a bankrupt business entity may continue to so proceed if—

(A) on request of a party in interest or on a motion by the bankruptcy court, and after a hearing, the bankruptcy court presiding over the chapter 11 case of the bankrupt business entity determines that—

(i) confirmation is necessary to permit the reorganization of that entity and assure that all creditors and that entity are treated fairly and equitably; and

(ii) confirmation is clearly favored by the balance of the equities; and

(B) an order confirming the plan of reorganization is entered by the bankruptcy court within 9 months after the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown.

(3) APPLICABILITY.—If the bankruptcy court does not make the determination required under paragraph (2), or if an order confirming the plan is not entered within 9 months after the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown, the provisions of this Act shall apply to the bankrupt business entity notwithstanding the certification. Any timely appeal under title 11, United States Code, from a confirmation order entered during the applicable time period shall automatically extend the time during which this Act is inapplicable to the bankrupt business entity, until the appeal is finally and fully resolved.

(4) OFFSETS.—

(A) PAYMENTS BY INSURERS.—To the extent that a bankrupt business entity or debtor successfully confirms a plan of reorganization, including any trust, and channeling injunction that involves payments by insurers who are otherwise subject to this Act as described in section 524(g) of title 11, United States Code, an insurer who makes payments to the trust shall obtain a dollar-for-dollar reduction in the amount otherwise payable by that insurer under this Act to the Fund.

(B) CONTRIBUTIONS TO FUND.—Any cash payments by a bankrupt business entity, if any, to a trust described under section 524(g) of title 11, United States Code, may be counted as a contribution to the Fund.

(d) TIERS II THROUGH VI.—Except as provided in section 204 and subsection (b) of this section, a trust and channeling injunction that involves payments by persons within a debtor under section 224 from any of the direct or indirect majority-owned subsidiaries of such debtor may be used to calculate the payment obligation for the debtor, the Administrator shall have the right to seek payment of all or any portion of the entire amount due (as well as any other amount for which the debtor may be liable under sections 223 and 224) from any of the direct or indirect majority-owned subsidiaries under section 201(e)(1) and (2).

(ii) CAUSE OF ACTION.—Notwithstanding section 221(e), this Act shall not preclude actions among persons within a debtor under section 201(3)(A) (i) and (ii) with respect to the payment obligations under this Act.

(iii) RIGHT OF CONTRIBUTION.—

(I) IN GENERAL.—If a person who is subject to a case pending under a chapter of title 11, United States Code, as defined in section 201(e)(1), does not pay when due any payment obligation for the debtor, the Administrator shall have the right to seek payment of all or any portion of the entire amount due (as well as any other amount for which the debtor may be liable under sections 223 and 224) from any of the direct or indirect majority-owned subsidiaries under section 201(e)(1).

(2) DEFENDANTS.—Each debtor's reorganization plan shall provide that defendants under section 201(3)(A) (i) and (ii) with respect to the payment obligations under this Act.

Subsection (b) shall not be stayed or affected as to enforcement or collection by any stay or injunction power of any court; and

C shall not be impaired or discharged in any current or future case under title 11, United States Code, an insurer who makes payments to a fund described under section 524(g) of title 11, United States Code, for asbestos expenditures paid by a bankrupt business entity, if

(ii) a hearing, the bankruptcy court presiding over the chapter 11 case of the bankrupt business entity determines that—

(i) confirmation is necessary to permit the reorganization of that entity and assure that all creditors and that entity are treated fairly and equitably; and

(ii) confirmation is clearly favored by the balance of the equities; and

(iii) the bankruptcy court does not make the determination required under paragraph (2), or if an order confirming the plan of reorganization is not entered within 9 months after the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown, the provisions of this Act shall apply to the bankrupt business entity notwithstanding the certification. Any timely appeal under title 11, United States Code, from a confirmation order entered during the applicable time period shall automatically extend the time during which this Act is inapplicable to the bankrupt business entity, until the appeal is finally and fully resolved.

(i) IN GENERAL.—All of the following shall be superseded in their entirety by this Act:

(A) any agreement, understanding, or undertaking that involves payments by insurers who are otherwise subject to this Act as described in section 524(g) of title 11, United States Code, an insurer who makes payments to the trust shall obtain a dollar-for-dollar reduction in the amount otherwise payable by that insurer under this Act to the Fund.

(B) Any asbestos claim against any debtor included in Tier I.

(C) Any agreement, understanding, or undertaking by any such debtor or any third party with respect to the treatment of any asbestos claims in a debtor's bankruptcy case or with respect to a debtor before the date of enactment of this Act, whenever such debtor's case is either still pending, if such case is not still pending as of the date of enactment of this Act or such longer period of time approved by the bankruptcy court for cause shown, the provisions of this Act shall apply to the bankrupt business entity, until the appeal is finally and fully resolved.

(D) The sale or transfer of assets to any group attributable to the historical business operations or assets of such person, regardless of whether such business operations or assets were owned or conducted during the year 2002 by such person or by any other person included within such debtor and affiliated group.

(i) IN GENERAL.—Each debtor in Tier I shall be included in sub tiers and shall pay amounts to the Fund as provided under this section.

(ii) SUBTIERS.—

(A) IN GENERAL.—All persons that are debtors with prior asbestos expenditures of $1,000,000 or greater, shall be included in Subtier I.

(ii) PAYMENT.—Each debtor included in Subtier I shall pay on an annual basis 1.67024 percent of the debtor's 2002 revenues.

(iii) OTHER ASSETS.—The Administrator, at the sole discretion of the Administrator, may allow a Subtier 1 debtor to satisfy its funding obligation under this paragraph with assets other than cash if the Administrator determines that requiring the payment of the debtor's funding obligation would render the debtor's reorganization infeasible.

(E) LIABILITY.—

(I) IN GENERAL.—If a person who is subject to a case pending under a chapter of title 11, United States Code, as defined in section 201(e)(1), does not pay when due any payment obligation for the debtor, the Administrator shall have the right to seek payment of all or any portion of the entire amount due (as well as any other amount for which the debtor may be liable under sections 223 and 224) from any of the direct or indirect majority-owned subsidiaries under section 201(e)(1).

(ii) CAUSE OF ACTION.—Notwithstanding section 221(e), this Act shall not preclude actions among persons within a debtor under section 201(3)(A) (i) and (ii) with respect to the payment obligations under this Act.

(iii) RIGHT OF CONTRIBUTION.—

(I) IN GENERAL.—Notwithstanding any other provision of the Act, if a direct or indirect majority-owned foreign subsidiary of a debtor participant (with such relationship to the debtor participant as determined on the date of enactment of this Act) is or becomes subject to any foreign insolvency proceedings, and such foreign direct or indirect majority-owned subsidiary is liquidated in proceeding in accordance with generally accepted accounting principles, consistently applied, using the amount reported as revenues in the annual report filed with the Securities and Exchange Commission in accordance with the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) for the most recent fiscal year ending on or before December 31, 2002. If the defendant participant or affiliated group does not pay its portion of revenues to the Securities and Exchange Commission, revenues shall be the amount that the defendant participant or affiliated group would have reported as revenues under the rules of the Securities and Exchange Commission in the event that it had been required to file. revenues under the rules of the Securities and Exchange Commission in the event that it had been required to file.
canceled or terminated in connection with such foreign insolvency proceedings), the debtor participant shall have a claim against such foreign subsidiary or the estate of such foreign subsidiary in an amount equal to the greater of—

(aa) the estimated amount of all current and future asbestos liabilities against such foreign subsidiary; or

(bb) the foreign subsidiary's allocable share of the debtor participant's funding obligations to the Fund as determined by such foreign subsidiary's allocable share of the debtor participant's 2002 gross revenue.

(II) DETERMINATION OF CLAIM AMOUNT.—The claim amount under subclause (1) (aa) or (bb) shall be determined by a court of competent jurisdiction in the United States.

(III) EFFECT ON PAYMENT OBLIGATION.—The right to, or recovery under, any such claim shall not reduce, limit, delay, or otherwise affect the debtor participant's payment obligations under this Act.

(iv) MAXIMUM ANNUAL PAYMENT OBLIGATION.—Subject to any payments under section 204(l) and 222(d), and paragraphs (3), (4), and (5) of this subsection, the annual payment obligation by a debtor under subparagraph (3) of this paragraph shall not exceed $50,000,000.

(3) SUBTIER 2.—(A) IN GENERAL.—Notwithstanding paragraph (2), all persons that are debtors other than those included in Subtier 2, which have no material continuing business operations and no cash or other assets allocated or earmarked for the settlement of asbestos claims shall be included in Subtier 2.

(B) ASSIGNMENT OF ASSETS.—Not later than 90 days after the date of enactment of this Act, each person included in Subtier 2 shall assign all of its assets to the Fund.

(4) SUBTIER 3.—(A) IN GENERAL.—Notwithstanding paragraph (2), all persons that are debtors other than those included in Subtier 2, which have no material continuing business operations and no cash or other assets allocated or earmarked for the settlement of asbestos claims, shall be included in Subtier 3.

(B) ASSIGNMENT OF UNENCUMBERED ASSETS.—Not later than 90 days after the date of enactment of this Act, each person included in Subtier 3 shall contribute an amount equal to 50 percent of its total unencumbered assets.

(C) CALCULATION OF UNENCUMBERED ASSETS.—Unencumbered assets shall be calculated for each person's total assets, excluding insurance-related assets, less—

(i) all allowable administrative expenses;

(ii) allowable priority claims under section 507 of title 11, United States Code; and

(iii) allowable secured claims.

(5) CLASS ACTION TRUST.—The assets of any class action trust that has been established in accordance with subsection (a)(2) shall be attributed to the parent owners of the asbestos claims of any person included within a debtor or affiliated group that has been included in Tier I (exclusive of any assets needed to satisfy the liabilities of any asbestos claims within the meaning of section 403(d)(1), before the date of enactment of this Act) shall be transferred to the Fund not later than 6 months after the date of enactment of this Act.

(c) TIER II SUBTIERS.—(1) IN GENERAL.—Each person or affiliated group in Tier II shall be included in 1 of the 5 subtiers of Tier II, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with—

(A) those persons or affiliated groups with the highest revenues included in Subtier 1;

(B) those persons or affiliated groups with the next highest revenues included in Subtier 2;

(C) those persons or affiliated groups with the next lowest revenues included in Subtier 4; and

(D) those persons or affiliated groups with the lowest revenues included in Subtier 5.

(2) PAYMENTS.—Each person or affiliated group within each subtier shall pay, on an annual basis, the following:

(A) Subtier 1: $27,500,000.

(B) Subtier 2: $24,750,000.

(C) Subtier 3: $19,250,000.

(D) Subtier 4: $16,500,000.

(E) Subtier 5: $5,500,000.

(3) SUBTIER 3.—Each person or affiliated group in Tier III shall be included in 1 of the 5 subtiers of Tier III, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with—

(A) those persons or affiliated groups with the highest revenues included in Subtier 1;

(B) those persons or affiliated groups with the next highest revenues included in Subtier 2;

(C) those persons or affiliated groups with the lowest revenues included in Subtier 5; and

(D) those persons or affiliated groups with the next lowest revenues included in Subtier 4.

(4) SUBTIER 2.—Each person or affiliated group in Tier IV shall be included in 1 of the 4 subtiers of Tier IV, based on the person's or affiliated group's revenues. Such subtiers shall each contain as close to an equal number of total persons and affiliated groups as possible, with those persons or affiliated groups with the highest revenues included in Subtier 1, those with the lowest revenues in Subtier 4, those persons or affiliated groups with the next lowest revenues included in Subtier 3, and those remaining in Subtier 2.

(5) SUBTIER 1.—Each person or affiliated group in Tier V with revenues of $6,000,000,000 or more is included in Subtier 1 and shall make annual payments of $1,000,000 to the Fund.

(6) SUBTIER 2.—Each person or affiliated group in Tier VI with revenues of $4,000,000,000 but not less than $500,000,000 is included in Subtier 2 and shall make annual payments of $5,500,000 to the Fund.

(7) SUBTIER 3.—Each person or affiliated group in Tier VII with revenues of $1,000,000,000 or more is included in Subtier 3 and shall make annual payments of $5,000,000 to the Fund.

(f) TIER VII.—(1) IN GENERAL.—Notwithstanding prior asbestos expenditures that might qualify a person or affiliated group not to be included in Tier VII, if the person or affiliated group—

(A) is or has at any time been subject to asbestos claims brought under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, as a result of operations as a common carrier by railroad; and

(B) has paid (including any payments made by others on behalf of such person or affiliated group) not less than $50,000,000 in settlement, judgment, defense, or indemnity costs relating to such claims.

(2) ADDITIONAL AMOUNT.—The payment requirement for persons or affiliated groups included in Tier VII shall be in addition to any payment requirement applicable to such person or affiliated group under Tiers II through V.

(3) SUBTIER 1.—Each person or affiliated group in Tier VII with revenues of $6,000,000,000 or more is included in Subtier 1 and shall make annual payments of $1,000,000 to the Fund.

(4) SUBTIER 2.—Each person or affiliated group in Tier VII with revenues of less than $6,000,000,000 but not less than $500,000,000 is included in Subtier 2 and shall make annual payments of $5,500,000 to the Fund.

(5) SUBTIER 3.—Each person or affiliated group in Tier VII with revenues of less than $4,000,000,000, but not less than $500,000,000 is included in Subtier 3 and shall make annual payments of $5,000,000 to the Fund.

(g) JOINT VENTURE REVENUES AND LIABILITY.—(1) REVENUES.—For purposes of this subsection, the revenues of each joint venture shall be included on a pro rata basis reflecting relative joint ownership to calculate the revenues of the parents of that joint venture. The joint venture shall not be responsible for a contribution amount under this subsection.

(2) LIABILITY.—For purposes of this subsection, the liability under the Act of April 22, 1908 (45 U.S.C. 51 et seq.), commonly known as the Employers' Liability Act, shall be attributed to the parent owners of the joint venture on a pro rata basis, reflecting their relative share of ownership. The joint venture shall not be responsible for a payment amount under this provision.

SEC. 204. ASSESSMENT ADMINISTRATION.

(a) IN GENERAL.—Each defendant participant or affiliated group shall pay to the Fund in the amounts provided under this subtitle as appropriate for its tier and subtier each year until the earlier to occur of the following:

(1) The participant or affiliated group has satisfied its obligations under this subtitle during the 30 annual payment cycles of the operation of the Fund; and

(2) The amount received by the Fund from defendant participants, excluding any amounts related to defendant participants in connection with the minimum aggregate payment obligation of section 202(a)(2).
(b) SMALL BUSINESS EXEMPTION.—Notwithstanding any other provision of this subtitle, a person or affiliated group that is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), on December 31, 2002, is exempt from any payment requirement under this subtitle and shall not be included in the subsequent allocations under section 203.

(c) PROCEDURES.—The Administrator shall prescribe procedures on how amounts payable under this section are to be paid, including, to the extent the Administrator determines appropriate, procedures relating to payment in installments.

(d) Payments.

(1) IN GENERAL.—Under expedited procedures established by the Administrator, a defendant participant may seek adjustment of the amount of its payment obligation based on severe financial hardship or demonstrated inequity. The Administrator may determine whether to grant an adjustment and the size of any such adjustment, in accordance with this subsection. A defendant participant has a right to obtain a rehearing of the Administrator’s determination under this subsection under the procedures prescribed in subsection (1)(10). The Administrator may adjust a defendant participant’s payment obligations on a pro rata basis, either by giving the relevant portion of the otherwise applicable payment obligation or by providing relief from the statutory hardship and inequity adjustment account created under subsection (j) after payment of the otherwise applicable payment obligation, at the discretion of the Administrator.

(2) FINANCIAL HARDSHIP ADJUSTMENTS.—

(A) IN GENERAL.—A defendant participant may apply for an adjustment based on financial hardship at any time during the period in which a payment obligation to the Fund remains outstanding and may qualify for such adjustment by demonstrating that the amount of the defendant participant’s payment obligation under the statutory allocation would constitute a severe financial hardship.

(B) TERM.—Subject to the annual availability of funds in the defendant hardship and inequity adjustment account established under subsection (j), a financial hardship adjustment under this subsection shall have a term of 3 years.

(C) RENEWAL.—After an initial hardship adjustment is granted under this paragraph, a defendant participant may renew its hardship adjustment by demonstrating that it remains justified.

(D) REINSTATEMENT.—Following the expiration of the hardship adjustment period prescribed in this section and upon the payment of the annual amount due from the defendant participant for the entire period prescribed under subsection (a), the Administrator shall annually determine whether there has been a material change in the financial condition of the defendant participant such that the Administrator, consistent with the policies and legislative intent underlying this Act, reinstates the conditions established by the Administrator any part or all of the defendant participant’s payment obligation under the statutory allocation that was not paid during the hardship adjustment term.

(3) INEQUITY ADJUSTMENTS.—

(A) IN GENERAL.—A defendant participant—

(i) may qualify for an adjustment based on inequity if the Administrator determines, by considering all of the information necessary to determine an inequity adjustment under paragraph (A), the payment rate of a defendant participant as a percentage of the amount of the defendant participant’s payment obligation under this Act would be inequitable;

(ii) shall have a term of 3 years.

(B) LIMITATION.—A defendant participant may seek adjustment of the amount of its payment obligation based on inequity for that 3-year period.

(c) SMALL BUSINESS EXEMPTION.—Notwithstanding any other provision of this Act other than this subsection, the affiliated group shall be treated as if it were a single participant, including with respect to the assessment of a single annual payment under this Act for the entire affiliated group.

(d) RENEWAL.—A defendant participant may renew an inequity adjustment every 3 years by demonstrating that the adjustment remains justified.

(E) REINSTATEMENT.—

(1) IN GENERAL.—Following the termination of an inequity adjustment under subparagraph (A), the administrators of the affiliated group under this Act, on behalf of the entire affiliated group, may apply for an inequity adjustment for that 3-year period.

(2) APPEAL.—The Administrator may, consistent with the policies and legislative intent underlying this Act, reinstate any or all of the payment obligations of the defendant participant as if the inequity adjustment had not been granted for that 3-year period.

(3) TERMS AND CONDITIONS.—In the event of a reinstatement under clause (i), the Administrators of the affiliated group shall have authority to pay any part or all of amounts not paid due to the inequity adjustment on such terms and conditions as established by the Administrator.

(4) LIMITATION ON ADJUSTMENTS.—The aggregate total of financial hardship adjustments under paragraph (2) and inequity adjustments under paragraph (3) in effect in any given year shall not exceed $300,000,000, except to the extent additional monies are provided for such purpose by result of carryover of prior years’ funds under subsection (j)(3) or as a result of monies being made available in that year under subsection (k)(1).

(5) ADVISORY PANELS.—

(A) APPOINTMENT.—The Administrator shall appoint a Financial Hardship Adjustment Review Panel and an Inequity Adjustment Review Panel to advise the Administrator in carrying out this subsection.

(B) MEMBERSHIP.—The membership of the panels appointed under subparagraph (A) shall coordinate their deliberations and advice.

(C) LIMITATION ON LIABILITY.—The liability of each defendant participant to pay to the Fund shall be limited to the payment obligations under this Act, as provided in subsection (1) and section 203(b)(2)(D), no defendant participant shall have any liability for the payment obligations of any other defendant participant.

(D) CONSOLIDATION OF PAYMENTS.—

(1) IN GENERAL.—For purposes of determining the payment levels of defendant participants, any affiliated group including 1 or more defendant participants may irrevocably elect, as part of the submissions to be made under paragraphs (1) and (3) of subsection (c), to report all of the affiliated group’s assets and liabilities, and all of the information necessary to determine the payment level under this subtitle and pay to the Fund on a consolidated basis.

(E) DETERMINATION OF PRIOR ASBESTOS EXPENDITURES.—

(ii) TERMS AND CONDITIONS.—In the event of an inequity adjustment under subparagraph (A), the Administrator shall annually determine whether there has been a material change in the financial condition of the defendant participant prior to such adjustment in excess of its adjusted payment obligation under this clause shall be credited against next succeeding required payment obligations.

(B) PAYMENT RATE.—For purposes of subparagraph (A), the payment rate of a defendant participant is the payment amount of the defendant participant as a percentage of the inflation-adjusted value of the assets of the company from which such liability was derived in accordance with such determination the Administrator shall grant such adjustment for the life of the Fund and amounts paid by such defendant participant prior to such adjustment in excess of its adjusted payment obligation under this clause shall be credited against next succeeding required payment obligations.

(F) DETERMINATION OF PRIOR ASBESTOS EXPENDITURES.—

(ii) TERMS AND CONDITIONS.—In the event of a reinstatement under clause (i), the Administrators of the affiliated group shall have authority to pay any part or all of amounts not paid due to the inequity adjustment on such terms and conditions as established by the Administrator.

(4) LIMITATION ON ADJUSTMENTS.—The aggregate total of financial hardship adjustments under paragraph (2) and inequity adjustments under paragraph (3) in effect in any given year shall not exceed $300,000,000, except to the extent additional monies are provided for such purpose by result of carryover of prior years’ funds under subsection (j)(3) or as a result of monies being made available in that year under subsection (k)(1).

(5) ADVISORY PANELS.—

(A) APPOINTMENT.—The Administrator shall appoint a Financial Hardship Adjustment Review Panel and an Inequity Adjustment Review Panel to advise the Administrator in carrying out this subsection.

(B) MEMBERSHIP.—The membership of the panels appointed under subparagraph (A) shall coordinate their deliberations and advice.

(C) LIMITATION ON LIABILITY.—The liability of each defendant participant to pay to the Fund shall be limited to the payment obligations under this Act, as provided in subsection (1) and section 203(b)(2)(D), no defendant participant shall have any liability for the payment obligations of any other defendant participant.

(D) CONSOLIDATION OF PAYMENTS.—

(1) IN GENERAL.—For purposes of determining the payment levels of defendant participants, any affiliated group including 1 or more defendant participants may irrevocably elect, as part of the submissions to be made under paragraphs (1) and (3) of subsection (c), to report all of the affiliated group’s assets and liabilities, and all of the information necessary to determine the payment level under this subtitle and pay to the Fund on a consolidated basis.

(E) DETERMINATION OF PRIOR ASBESTOS EXPENDITURES.—

(ii) TERMS AND CONDITIONS.—In the event of a reinstatement under clause (i), the Administrators of the affiliated group shall have authority to pay any part or all of amounts not paid due to the inequity adjustment on such terms and conditions as established by the Administrator.
(1) In general.—For purposes of determining a defendant participant’s prior asbestos expenditures, the Administrator shall prescribe such rules as may be necessary or appropriate to determine that payment or indemnity before December 31, 2002, shall be counted as part of the indemnitor’s prior asbestos expenditures, rather than the indemnitor’s prior asbestos expenditures, in accordance with this subsection.

(2) Indemnifiable costs.—If an indemnitor has paid or reimbursed to an indemnitee any indemnifiable cost or otherwise made a payment on behalf of or for the benefit of an indemnitee to a third party for an indemnifiable cost, prior to the 10-year anniversary of the payment, the amount of such indemnifiable cost shall be solely for the account of the indemnitee for purposes under this Act.

(3) Treatment of certain expenditures.—Notwithstanding any other provision of this Act, where—

(A) an indemnitor entered into a stock purchase agreement in 1988 that involved the sale of a business that produced chrysotile and other asbestos products; and

(B) the stock purchase agreement provided that the indemnitor indemnified the indemnitee and its affiliates for losses arising from various matters, including asbestos claims—

(i) asserted before the date of the agreement; and

(ii) filed after the date of the agreement and prior to the 10-year anniversary of the stock sale; then—

(i) prior asbestos expenditures arising from the asbestos claims described in clauses (i) and (ii) shall not be for the account of either the indemnitor or indemnitee.

(4) Guaranteed payment account.—To the extent payments in accordance with sections 202 and 203 (as modified by subsections (b), (d), (f), (h), and (i)) fail to raise at least $3,000,000,000 net of any adjustments under subsection (d), the aggregate annual payment shall be obtained from the defendant participant in Tiers II, III, IV, V, or VI shall file with the Administrator—

(i) a statement of whether the defendant participant irrevocably elects to report on a consolidated basis under section 203(a)(1); and

(ii) a good-faith estimate of its prior asbestos expenditures;

(iii) a statement of its 2002 revenues, determined in accordance with section 203(a)(2); and

(iv) payment in the amount specified in section 203 for the lowest subtier of the tier within which the defendant participant falls, except that if the defendant participant, or the affiliated group including the defendant participant, had 2002 revenues exceeding $5,000,000,000, its or its affiliated group shall pay the amount specified for Subtier 3 of Tiers II, III, IV or Subtier 2 of Tiers V or VI, depending on the applicable Tier.

(5) Relief.—

(A) In general.—The Administrator shall establish procedures to grant a defendant participant relief from its initial payment obligation if the participant shows that—

(i) the participant is likely to qualify for a financial hardship adjustment; and

(ii) the participant has an aggregate annual payment that would cause severe irreparable harm.

(B) Judicial relief.—The Administrator’s refusal to grant relief under clause (i) is subject to immediate judicial review under section 303.

(2) Initial year: tier I.—Not later than 60 days after enactment of this Act, each debtor participant shall file with the Administrator—

(A) a statement identifying the bankrupt entity associated with the debtor; and

(B) a statement whether its prior asbestos expenditures exceed $1,000,000.

(3) Initial year: tier II.—Not later than 90 days after enactment of this Act, each debtor participant in Tier II that reported on a consolidated basis under section 203(a)(2), and a payment under section 203(b)(2)(B); and

(F) in the case of debtors falling within Subtier 2 of Tier I, a payment under section 203(b)(2)(B).

(4) Initial year: tier III.—Not later than 90 days after enactment of this Act, each debtor participant in Subtier 1 of Tier I, a statement of the debtor’s 2002 revenues, determined in accordance with section 203(a)(2), and a payment under section 203(b)(2)(B); and

(F) in the case of debtors falling within Subtier 2 of Tier I, an assignment of its asbestos expenditures, in accordance with section 203(b)(2)(B).

(5) Initial year: tier IV, V, or VI.—Not later than 90 days after enactment of this Act, each defendant participant in Tiers IV, V, or VI shall file with the Administrator—

(A) a statement identifying all payments of the type described in section 203(b)(1) (as modified by section 203(b)(4));

(B) a statement of revenues calculated in accordance with sections 203(a)(2) and 203(h); and

(C) payment in the amount specified in section 203(h).

(6) Notice to participants.—Not later than 60 days after receiving a notice under paragraph (5), the Administrator shall send the person a notice of initial determination identifying the tier and subtier, if any, into which the person falls and the annual payment obligation, if any, to the Fund, which shall be based on the information received from the person under this subpart. The notice shall include, on behalf of the defendant participant or affiliated group, a consent to the Administrator’s audit authority under section 221(d).

(7) Notice of initial determination.—

(A) In general.—

(i) Notice to individual.—Not later than 60 days after receiving a notice under paragraph (5), the Administrator shall send the person a notice of initial determination identifying the tier and subtier, if any, into which the person falls and the annual payment obligation, if any, to the Fund, which shall be based on the best information available to the Administrator.

(ii) Notice to participants.—Not later than 7 days after sending the notification of initial determination to defendant participants, the Administrator shall publish in the Federal Register a notice listing the defendant participants that have been sent such notification, and the initial determination identifying the tier and subtier, if any, into which the person falls, and the annual payment obligation of each identified participant.

(8) No response: incomplete response.—If no response in accordance with paragraph (5) is received from a defendant participant, or if the response is incomplete, the initial determination shall be based on the best information available to the Administrator.

(9) Payments.—Within 30 days of receiving a notice of initial determination requiring payment, the defendant participant shall pay the Administrator the amount required by the notice, deducting any previous payment made by the participant under this Act. If the amount the defendant participant is required to pay is less than any previous payment made by the participant under this subpart, the participant is required to pay the difference against the future payment obligations of that defendant participant. The Administrator has the right to require the participant to submit such reports as may be necessary to ensure that the participant is complying with the terms of this Act.

(10) Exemptions for information required on previous payments.—

(A) Prior asbestos expenditures.—In lieu of submitting information related to prior asbestos expenditures as may be required for the purpose of this subpart, any defendant participant may consent to be assigned to Tier II.

(B) Certification.—The response submitted under this subpart shall be signed by the defendant participant or affiliated group on behalf of the defendant participant.
(B) REVUNUES.—In lieu of submitting information related to revenues as may be required for purposes of this subtitle, a non-debtor defendant participant may consent to be assessed, under subsection (b) of the defendant participant's applicable tier.

(2) NEW INFORMATION.—

(A) EXISTING PARTICIPANT.—The Administrator, at any time, receives information that an additional person may qualify as a defendant participant. Upon receipt of such information, the Administrator shall require such person to submit information necessary to determine whether that person is required to make payments, and in what amount, under this subtitle and shall make any determination or take any other action consistent with this Act based on such information or any other information available to the Administrator with respect to such person.

(B) ADDITIONAL PARTICIPANT.—If the Administrator, at any time, receives information that an additional person may qualify as a defendant participant, the Administrator shall adopt procedures for requiring additional payment, or refunding amounts already paid, based on new information received.

(9) SUBPOENAS.—The Administrator may request the Attorney General to subpoena persons to attend and testify, records, and other information relevant to its responsibilities under this section. The Attorney General may enforce such subpoena in appropriate United States District Courts.

(10) REHEARING.—A defendant participant has a right to obtain rehearing of the Administrator's determination under this subsection of the applicable tier or subtier and of the Administrator's determination under subsection (d) of a financial hardship or inequity adjustment, if the request for rehearing is filed not later than 90 days after the defendant participant's receipt of notice from the Administrator of the determination. A defendant participant may not file an action under section 303 unless the defendant participant requests a rehearing under this paragraph.

The Administrator shall publish a notice in the Federal Register of any change in a defendant participant's tier or subtier assignment or payment obligation as a result of a rehearing.

(1) DEFENDANT HARDSHIP AND INEQUITY ADJUSTMENT ACCOUNT.—

(1) IN GENERAL.—Subject to subsections (b) and (j), if there are excess monies paid by defendant participants in any given year, including any bankruptcy trust credits that may be due under section 222(a), such monies—

(A) at the discretion of the Administrator, may be used to provide additional adjustments under subsection (d), up to a maximum aggregate of $50,000,000 in such year; and

(B) to the extent not used under subparagraph (A), shall be placed in a defendant guaranteed payment account established within the Fund by the Administrator.

(2) USE OF ACCOUNT MONIES.—Monies from the defendant guaranteed payment account shall be preserved and administered like the remainder of the Fund, but shall be reserved and may be used only—

(A) to ensure the minimum aggregate annual payment set forth in subsection (h) net of any adjustments under subsection (d) is reached; or

(B) if the condition set forth in subsection (a)(2) is met, for any purpose that the Fund may serve under this Act.

(2) CERTIFICATION.—

(1) IN GENERAL.—To the extent there are insufficient monies in the defendant guaranteed payment account established under subsection (k) to attain the minimum aggregate annual payment net of any adjustments under subsection (d) in any given year, the Administrator may impose on each defendant participant a surcharge as necessary to raise the balance required to attain the minimum aggregate annual payment net of any adjustments under subsection (d), as provided in this subsection. Any such surcharge shall be imposed on a pro rata basis in accordance with each defendant participant's relationship to the Fund as of December 31 of the previous calendar year.

(2) NOTICE AND COMMENT.—Before making a final certification under subparagraph (C), the Administrator shall publish a notice in the Federal Register of a proposed certification and provide in such notice for a public comment period of 30 days.

(3) FINAL CERTIFICATION.—In general, the Administrator shall publish a notice of the final certification in the Federal Register after consideration of all comments submitted under subparagraph (B).

(11) WRITTEN NOTICE.—Not later than 30 days after publishing any final certification under clause (i), the Administrator shall provide such defendant participant with written notice of that defendant participant's payment, including the amount of any surcharge.

SEC. 205. STEPDOWNS AND FUNDING HOLIDAYS.

(a) STEPDOWNS.—

(1) IN GENERAL.—Subject to paragraph (2), the minimum aggregate annual funding obligation under subsection (d) shall be reduced by 10 percent of the initial minimum aggregate funding obligation at the end of the tenth, twentieth, and twenty-fifth years after the date of enactment of this Act. The reductions under this paragraph shall be applied on an equal pro rata basis to the funding obligations of all defendant participants, except with respect to defendant participants in Subtiers 2 and 3 of Tier I and class action trusts.

(b) FUNDING HOLIDAYS.—

(1) IN GENERAL.—If the Administrator determines, at any time after 10 years following the date of enactment of this Act, that the assets of the Fund and expected future payments remain sufficient to satisfy the Fund's anticipated obligations, the Administrator shall suspend, cancel, reduce, or delay any reduction under paragraph (1) if at any time the Administrator finds, in accordance with subsection (c), that such action is necessary and appropriate to ensure that the assets of the Fund and expected future payments remain sufficient to satisfy the Fund's anticipated obligations.

(2) LIMITATION.—The Administrator shall suspend, cancel, reduce, or delay any reduction under paragraph (1) if at any time the Administrator finds, in accordance with subsection (c), that such action is not necessary and appropriate to ensure that the assets of the Fund and expected future payments remain sufficient to satisfy the Fund's anticipated obligations.

SEC. 206. ASBESTOS INSURERS COMMISSION.

SEC. 210. DEFINITION.

In this subtitle, the term "captured insurance company" means—

(1) whose entire beneficial interest is owned on the date of enactment of this Act,
directly or indirectly, by a defendant partici-

(1) who was such an employee, shareholder,

(2) that was incorporated or operating no

(1) that was incorporated or operating no

latter than December 31, 2003.

SEC. 211. ESTABLISHMENT OF ASBESTOS INSUR-

(a) ESTABLISHMENT.—There is established the

Commission. (referred to in this subtitle as the "Commission") to carry out the duties described in section 212.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 3 members who shall be ap-

pointed by the President, by and with the ad-

vice and consent of the Senate.

(2) QUALIFICATIONS.—

(A) EXPERTISE.—Members of the Commis-

sion shall have sufficient expertise to fulfill

sufficient expertise to fulfill their responsibilities under this subtitle.

(B) CONFLICT OF INTEREST.—

(i) IN GENERAL.—No member of the Com-

mission shall have sufficient expertise to fulfill

their responsibilities under this subtitle.

(ii) DEFINITION.—For the purposes of this

section and the limits of liability applicable to

any policy of liability insurance or contract of li-

nance or reinsurance was issued by the cap-

223. The insurer participant shall remain ob-

ligated to make payment to the Fund of that

amount, but if the insurer participant has ade-

quate reinsurance or retrocessional reinsur-

ance, the insurer participant shall remain ob-

ligated to make payment to the Fund of that

amount in lieu of the amount required under

this Act.

(ii) PAYMENTS.—Payments to the Fund re-

quired under this Act shall be treated as loss

payments.

(II) recent loss experience for asbestos li-

bility reinsurance or retrocessional reinsur-

ance participants.

(B) ACCOUNTING STANDARDS.—In deter-

mining the payment obligations of partici-

pants, such payments shall be treated as loss

payments.

(iii) AGGREGATE PAYMENT OBLIGATION.—

the aggregate insurer payments fall below

the limits of liability applicable to the policy of liability insurance or contract of li-

nance or reinsurance was issued by the cap-

tive insurance company.

(C) CATASTROPHE RESERVE.—Payments to the Fund that are not made by the insurer partici-

pant shall be treated as loss payments.

(D) SEVERAL LIABILITY.—Unless otherwise

provided under this Act, each insurer partici-

pant under section 202.

(1) IN GENERAL.—The insurer participant shall be

liable for payments required under this Act.

(ii) PAYMENTS.—Payments to the Fund re-

quired under this Act shall be treated as loss

payments.

(B) REINSURANCE.—

(i) IN GENERAL.—The insurer participant shall not be

subject to exclusion under policies described

under clause (i) as a liability with respect to tax or assessment. Within 90 days after the

determined date of the insurer participant to the Fund, the insurer participant shall, at

its discretion, direct the reinsurer issuing

such policy to pay all or a portion of the an-

nual payment directly to the Fund up to the

full applicable limits of liability under the

policy. The reinsurer issuing such policy shall

be treated as the reinsurer for purposes of

this Act.

(iii) ACCIDENTAL LOSS.—The insurer particip-

ant shall not be subject to exclusion under policies described

under clause (i) as a liability with respect to tax or assessment.

(III) RESERVES FOR ASBESTOS LIABILITY—

(i) IN GENERAL.—The Commission shall es-

tablish the payment obligations of individ-

ual insurer participants to reflect, on an equitable basis, the relative tort system li-

ability of the parties of the asbestos injuries.

(ii) JURISDICTION.—In the absence of this Act, considering and weighting, as appropriate (but exclusive of workers' compensation), such factors as

the relative tort system liability of the parties and the premium for lines of insurance associated with asbestos exposure over

relevant periods of time;

(ii) LIABILITIES.—The insurer participant shall

not be subject to exclusion under policies described

under clause (i) as a liability with respect to tax or assessment. Within 90 days after the
determined date of the insurer participant to the Fund, the insurer participant shall, at

its discretion, direct the reinsurer issuing

such policy to pay all or a portion of the an-

nual payment directly to the Fund up to the

full applicable limits of liability under the

policy. The reinsurer issuing such policy shall

be treated as the reinsurer for purposes of

this Act.

(iii) RESERVES FOR ASBESTOS LIABILITY—

(i) IN GENERAL.—The Commission shall es-

tablish the payment obligations of individ-

ual insurer participants to reflect, on an equitable basis, the relative tort system li-

ability of the parties of the asbestos injuries.

(ii) JURISDICTION.—In the absence of this Act, considering and weighting, as appropriate (but exclusive of workers' compensation), such factors as

the relative tort system liability of the parties and the premium for lines of insurance associated with asbestos exposure over

relevant periods of time;
(IV) the likely cost to each insurer participant of its future liabilities under applicable insurance policies; and
(V) any other factor the Commission may determine to be appropriate.

(ii) Determination of reserves.—The Commission may establish procedures and standards for determination of the asbestos reserves of insurer participants. The reserves of a United States licensed reinsurer that is wholly owned by, or under common control of, a United States licensed direct insurer shall be included as part of the direct insurer's reserves when the reinsurer's financial results are included as part of the direct insurer's United States operations, as reflected in financial statements prepared in accordance with the National Association of Insurance Commissioners or in published financial statements prepared in accordance with generally accepted accounting principles.

(C) Payment Schedule.—The aggregate annual amount of payments by insurer participants over the life of the Fund shall be as follows:

(1) For years 1 and 2, $2,700,000,000 annually.
(2) For years 3 through 5, $5,075,000,000 annually.
(3) For years 6 through 27, $1,147,000,000 annually.
(4) For year 28, $156,000,000.

(D) Certain Runoff Entities.—If the Commission determines that the runoff entity for severe financial hardship or exceptional circumstances, in the absence of the Fund, is unable to pay amounts proportionate to the aggregate amounts transferred, the Commission may approve that payment of the amounts required by section (a)(3)(C), in annual amounts, be payable to the general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of information submitted, or required to be submitted, to the Commission for purposes of determining the amount of any required payment to an insurer participant for the amount of any asbestos-related payments it made or was legally obligated to make, including payments released from an escrow, as the result of a bankruptcy confirmed after May 22, 2003, before the date of enactment of this Act.

(E) Financial Hardship and Exceptional Circumstance Adjustments.—

(i) In general.—Under the procedures established in subsection (b), an insurer participant may seek adjustment of the amount of payments on the basis of financial hardship or exceptional circumstances.

(ii) Procedure.—An insurer participant may qualify for an adjustment based on financial hardship or exceptional circumstances by demonstrating that payment of the amounts required by the Commission's methodology would jeopardize the solvency of such participant.

(iii) Exceptional Circumstance Adjustment.—An insurer participant may qualify for an adjustment based on exceptional circumstances by demonstrating—

(1) the amount of its payments under the Commission's allocation methodology is exceptionally equitable when measured against the amount of the likely cost to the participant of its future liability in the tort system in the absence of the Fund;
(2) an offset credit as described in subparagraph (A) shall be credited to the insurer participant's account in the Federal Escrow Fund; and
(3) the amount of any required payment to an insurer participant is exceptionally inequitable when measured against the amount of any required payment to another insurer participant.

(iv) Time Period of Adjustment.—Except for adjustments for offset credits, adjustments granted under this subsection shall have a term not to exceed 3 years. An insurer participant may seek renewal by demonstrating to the Administrator that it remains justified.

(b) Procedure for Notifying Insurer Participants of Individual Payment Obligations.—

(1) Notice to Participants.—Not later than 20 days after promulgation of the final rule establishing an allocation methodology under subsection (a)(1), the Commission shall:

(A) directly notify all reasonably identifiable insurer participants of the requirement to submit information necessary to calculate the amount of any required payment to the Fund under the methodology; and
(B) publish in the Federal Register a notice—

(i) requiring any person who may be an insurer participant to comply with the requirements of this subsection,
(ii) identifying the list of all insurer participants notified by the Commission under subparagraph (A), and providing for 30 days for the submission of comments or information relevant to the completeness and accuracy of the list of identified insurer participants.

(2) Response Required by Individual Insurer Participants.—

(A) In General.—Any person who receives notice under paragraph (1)(A), and any other person meeting the criteria specified in the notice published under paragraph (1)(B), shall respond by providing the Commission with all the information requested in the notice under a schedule or by a date established by the Commission.

(B) Certification.—The response submitted under subparagraph (A) shall be signed by a responsible corporate officer, general partner, proprietor, or individual of similar authority, who shall certify under penalty of law the completeness and accuracy of the information submitted.

(3) Notice to Insurer Participants of Initial Payment Determination.—

(A) In General.—Not later than 120 days after receipt of the information required by paragraph (2), the Commission shall send each insurer participant a notice of initial determination requiring payments to the Fund, which shall be based on the information received from the participant in response to the Commission's request for information. The insurer participant's payments shall be payable over the schedule established in subsection (a)(3)(C), in annual amounts proportionate to the aggregate annual amount of payments by all insurer participants for the applicable year.

(B) Public Notice.—Not later than 7 days after sending the notification of initial determination, the Commission shall publish in the Federal Register a notice listing the insurer participants that have been sent such notification, and the initial determination on the payment obligation of each identified participant.

(B) No Response; Incomplete Response.—

If no response is received from an insurer participant, or if the response is incomplete, the initial determination requiring a payment from the insurer participant shall be based on the best information available to the Commission.

(4) Commission Review, Revisions, and Finalization of Initial Payment Determinations.—

(A) Comments from Insurer Participants.—Not later than 30 days after receiving a notice of initial determination from the Commission, an insurer participant may provide the Commission with additional information to support adjustments to the requirements of this Act necessary for financial hardship or exceptional circumstances, including the provision of an offset credit for an insurer participant for the amount of any asbestos-related payments it was legally obligated to make, including payments released from an escrow, as the result of a bankruptcy confirmed after May 22, 2003, before the date of enactment of this Act.

(B) Additional Participants.—If, before the date of enactment of this Act, the Commission receives information that an additional person may qualify as an insurer participant, the Commission shall require that person to respond in an additional notice of determination, and that additional participant shall follow the procedures specified in paragraph (a) to determine whether payments from that person should be required, in accordance with the requirements of this subsection.

(C) Revision Procedures.—The Commission shall adopt procedures for revising initial payments based on information received under paragraphs (2)(A) and (B), including a provision requiring an offset credit for an insurer participant for the amount of any asbestos-related payments it made or was legally obligated to make, including payments released from an escrow, as the result of a bankruptcy confirmed after May 22, 2003, before the date of enactment of this Act.

(5) Examinations and Subpoenas.—

(A) Examinations.—The Commission may conduct examinations of the books and records of insurer participants to determine the completeness and accuracy of information submitted, or required to be submitted, to the Commission for purposes of determining an insurer participant's payments.

(B) Subpoenas.—The Commission may request the Attorney General to subpoena persons to compel testimony, records, and other information relevant to its responsibilities under this section. The Attorney General may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Escrow Payments.—Notwithstanding any provision of law, a person's obligation under this section, except an escrow, as the result of a bankruptcy confirmed after May 22, 2003, before the date of enactment of this Act, that has not been judicially confirmed by final order by the date of enactment of this Act shall be the property of the insurer participant and returned to that insurer participant.

(7) Notice to Insurer Participants of Final Payment Determinations.—

Not later than 60 days after the notice of initial determination is sent to the insurer participants, the Commission shall send each insurer participant a notice of final determination.

(O) Insurer Participants Voluntary Allocation Agreement.—

(1) In General.—Not later than 30 days after the notice of initial determination is sent to the insurer participants, the Commission shall send each insurer participant a notice of voluntary allocation agreement.

(2) Allocation Agreement.—To the extent the participants in any such applicable group agree to an arrangement, any such allocation agreement shall only govern the allocation of payments.
within that group and shall not determine the aggregate amount due from that group.

(3) CERTIFICATION.—The Commission shall determine whether an allocation agreement submitted under paragraph (A) meets the requirements of this subtitle and, if so, shall certify the agreement as establishing the allocation methodology governing the individual payments of the insurer participants who are parties to the agreement. The authority of the Commission under this subtitle shall, with respect to participants who are required by an allocation agreement to make payments to the Fund, terminate on the day after the Commission certifies such agreement. Under subsection (C), the Commission shall have the responsibility, if necessary, for calculating the individual payment obligations of participants who are parties to the certified agreement.

(d) COMMISSION REPORT.—

(1) RECIPIENTS.—Until the work of the Commission has been completed and the Commission terminated, the Commission shall submit an annual report, containing the information described under paragraph (2), to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives; and

(C) the Administrator.

(2) CONTENTS.—The report under paragraph (1) shall state the amount that each insurer participant is required to pay to the Fund, including the payment schedule for such payments.

(e) INTERIM PAYMENTS.—

(1) AUTHORITY OF ADMINISTRATOR.—During the period between the date of enactment of this Act and the date when the Commission issues its final determinations of payments, the Administrator may have the authority to require insurer participants to make interim payments to the Fund to assure adequate funding by insurer participants during such period.

(2) AMOUNT OF INTERIM PAYMENTS.—During any applicable year, the Administrator may require insurer participants to make aggregate interim payments not to exceed the annual aggregate amount specified in subsection (a)(3)(C).

(3) ALLOCATION OF PAYMENTS.—Interim payments shall be allocated among individual insurer participants on an equitable basis as determined by the Administrator. All payments required under this subpart shall be paid to the Fund established by the Commission. If an interim payment exceeds the ultimate payment, the Fund shall pay interest on the amount of the overpayment at a rate determined by the Administrator. If the ultimate payment exceeds the interim payment, the participant shall pay interest on the amount of the underpayment at the same rate. Any participant may seek an exemption from or reduction in any payment required under this subpart.

(f) TERMINAL OF INTERIM PAYMENT DECISIONS.—A decision by the Administrator to establish an interim payment obligation shall be considered final agency action and reviewable under section 704, except that the reviewing court may not stay an interim payment during the pendency of the appeal.

(g) TRANSFER OF AUTHORITY FROM THE COMMISSION TO THE ADMINISTRATOR.—

(1) IN GENERAL.—Upon termination of the Commission under section 215, the Administrator shall assume all the responsibilities and duties of the Commission. The Administrator shall have the power to modify the allocation methodology established by the Commission or by certified agreement or to promulgate a rule establishing any such methodology.

(2) FINANCIAL HARDSHIP AND EXCEPTIONAL CIRCUMSTANCES.—A determination by the Administrator under section 215, the Administrator shall have the authority, upon application by any insurer participant, to make adjustments to annual payments to the Fund payments at a discount rate determined by the Administrator; or

(c) STAFF.—

(1) IN GENERAL.—The Administrator of the Resolution Fund shall be responsible for the performance of the duties of the Commission.

(2) PAYMENTS.—The members of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel and waiting time) during which such member is engaged in the performance of the duties of the Commission.

(3) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code. The Commission may also compensate members from their homes or regular places of business in the performance of services for the Commission.

(4) STAFF.—

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel and waiting time) during which such member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code. The Commission may also compensate members from their homes or regular places of business in the performance of services for the Commission.

(c) Personnel Matters.


(a) Compensation of Members.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel and waiting time) during which such member is engaged in the performance of the duties of the Commission.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code. The Commission may also compensate members from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classified positions established by the General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5315 of such title.

(3) Travel Expenses.—Any Federal Government employee may be detailed to the Commission for reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5315 of such title.

SEC. 215. TERMINATION OF ASBESTOS INSURERS COMMISSION.

The Commission shall terminate 90 days after the last date on which the last member of the Commission makes a final determination of contribution under section 212(b) or 90 days after the last appeal of any final action by the Commission is exhausted, whichever occurs later.

SEC. 216. EXPENSES AND COSTS OF COMMISSION.

All expenses of the Commission shall be paid from the Fund.

Subtitle C—Asbestos Injury Claims Resolution Fund

SEC. 221. ESTABLISHMENT OF ABSENCE INJURY CLAIMS RESOLUTION FUND.

(a) Establishment.—There is established in the name of Asbestos Disease Compensation the Asbestos Injury Claims Resolution Fund, which shall be available to—

(1) claims for awards for an eligible disease or condition during which such member is engaged in the performance of the duties of the Commission.

(2) claims for reimbursement for medical monitoring determined under title I;

(3) principal and interest on borrowings described in section 217(b);

(4) the remaining obligations to the asbestos trust of a debtor and the class action trust under section 406(b); and

(e) Borrowing Authority.

SEC. 223. ESTABLISHMENT OF ASBESTOS INJURY CLAIMS RESOLUTION FUND.

(a) Establishment.—There is established in the name of Asbestos Disease Compensation the Asbestos Injury Claims Resolution Fund, which shall be available to—

(1) claims for awards for an eligible disease or condition during which such member is engaged in the performance of the duties of the Commission.

(2) claims for reimbursement for medical monitoring determined under title I;

(3) claims for reimbursement for medical monitoring determined under title I; and

(4) the remaining obligations to the asbestos trust of a debtor and the class action trust under section 406(b); and

(c) Borrowing Authority.
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CONGRESSIONAL RECORD — SENATE

April 19, 2005

(1) IN GENERAL.—The Administrator is authorized to borrow from time to time amounts as set forth in this subsection, for purposes of enhancing liquidity available to the Fund, or to put the obligation of the Fund under this Act. The Administrator may authorize borrowing in such form, over such term, with such necessary disclosure to its lenders as will most efficiently enhance the Fund’s liquidity.

(2) FEDERAL FINANCING BANK.—In addition to the general authority in paragraph (1), the Administrator shall borrow from the Federal Financing Bank in accordance with section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 637) for purposes of performance of the Administrator’s duties under this Act for the first 5 years.

(3) BORROWING CAPACITY.—The maximum amount that may be borrowed under this subsection at any given time is the amount that, taking into account all payment obligations related to all previous amounts borrowed in accordance with this subsection and all committed obligations of the Fund at the time of borrowing, can be repaid in full (with interest) in a timely fashion from—

(A) repayments of amounts borrowed under this subsection as of the time of the borrowing; and

(B) all amounts expected to be paid by participants during the subsequent 10 years.

(4) INVESTIGATIONS.—Repayment of monies borrowed by the Administrator under this subsection is limited solely to amounts available to the Asbestos Injury Claims Resolution Fund established under this section.

(c) LOCKBOX FOR SEVERE ASBESTOS-RELATED INJURY CLAM- MANTS.—

(1) IN GENERAL.—Within the Fund, the Administrator shall establish the following accounts:

(A) Asbestos Injury Claims Resolution Fund Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level VIII.

(B) A Lung Cancer Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level IX.

(C) A Severe Asbestos Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level X.

(D) A Moderate Asbestos Account, which shall be used solely to make payments to claimants eligible for an award under the criteria of Level XI.

(2) ALLOCATION.—The Administrator shall allocate to each of the 4 accounts established under paragraph (1) a portion of payments made to the Fund adequate to compensate all anticipated claimants for each account. Within 60 days after the date of enactment of this Act, the Administrator shall determine an appropriate amount to allocate to each account after consulting appropriate epidemiological and statistical studies.

(3) IN GENERAL.—For the purpose of ascertaining the correctness of any information provided or payments made to the Fund, or determining whether a person who has not made a payment to the Fund was required to do so, or determining the liability of any person for a payment to the Fund, or collecting any such liability, or inquiring into any offense connected with the administration or enforcement of this title, the Administrator is authorized—

(A) to use such books, papers, records, or other data which may be relevant or material to such inquiry; and

(B) to summon the person liable for a payment or offense or the relative of any of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable or any other person the Administrator may deem proper, to appear before the Administrator at a time and place designated by him, and to answer any questions of the Administrator as to circumstances of the business of such person, or any other person having possession, custody, or care of books of account or other data which may be relevant or material to such inquiry; and

(C) to take and examine the testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(2) FALSE, FRAUDULENT, OR FICTITIOUS STATEMENTS OR PRACTICES.—The Administrator determines that materially false, fraudulent, or fictitious statements or practices have been submitted or engaged in by persons who are claiming to be participants or who are administering the Federal Financing Bank or to the Asbestos Insurers Commission or any other person who provides evidence in support of such submissions for purposes of determining payment obligations under this Act, the Administrator may impose a civil penalty not to exceed $10,000 on any person found to have submitted or engaged in a materially false, fraudulent, or fictitious statement or practice under this Act. The Administrator shall promulgate appropriate regulations to implement this paragraph.

(e) IDENTITY OF CERTAIN DEPENDANT PARTICIPANTS; TRANSPARENCY.—

(1) SUBMISSION OF INFORMATION.—Not later than 60 days after the date of enactment of this Act, any person who, acting in good faith, has knowledge that such person or such person’s affiliated group has prior asbestos expenditures of $1,000,000 or greater, shall submit to the Administrator—

(A) the name of such person, or such person’s ultimate parent; and

(B) the like identification of each person or affiliated group which may be assigned under this Act.

(2) PUBLICATION.—Not later than 20 days after the end of the 60-day period referred to in paragraph (1), the Administrator or Interim Administrator, if the Administrator is not yet appointed, shall publish in the Federal Register a list of submissions required by this subsection, including the name of such persons or ultimate parents and the likely tier to which such persons or affiliated groups may be assigned. After publication of such list, any person who, acting in good faith, has knowledge that any other person has prior asbestos expenditures of $1,000,000 or greater may submit to the Administrator or Interim Administrator information on the identity of that person and the person’s prior asbestos expenditures.

(f) NO PRIVATE RIGHT OF ACTION.—Except as provided in sections 203(b)(2)(D)(i) and 204(f)(3), there shall be no private right of action under any Federal or State law against any participant based on a claim of compliance or noncompliance with this Act or the involvement of any participant in the enactment of this Act.

SEC. 222. MANAGEMENT OF THE FUND.

(a) IN GENERAL.—Amounts in the Fund shall be held for the exclusive purpose of providing benefits to asbestos claimants and their beneficiaries, including those provided in subsection (c), and to otherwise defray the reasonable expenses of administering the Fund.

(b) INVESTMENTS.—

(1) IN GENERAL.—Amounts in the Fund shall be administered and invested with the care, skill, prudence, and diligence, under the care, skill, prudence, and diligence, under circumstances of the investment, that a prudent person acting in a like capacity and manner would use.

(2) STRATEGY.—The Administrator shall invest assets in such manner as will enable the Fund to make current and future distributions to or for the benefit of asbestos claimants. In pursuing an investment strategy under this subparagraph, the Administrator shall consider, to the extent relevant to an investment decision or action—

(A) the size of the Fund; and

(B) the nature and estimated duration of the Fund;

(C) the liquidity and distribution requirements of the Fund;

(D) general economic conditions at the time of the investment;

(E) the possible effect of inflation or deflation on funds assets; and

(F) the role that each investment or course of action plays with respect to the overall assets of the Fund.

(2) STRATEGY.—The Administrator shall invest assets—

(A) be chosen by the Director of the National Institutes of Health;

(B) be chosen through competitive peer review;

(C) be geographically distributed throughout the United States with special consideration given to areas of high incidence of mesothelioma disease;

(D) be closely associated with Department of Veterans Affairs medical centers to provide research benefits and care to veterans who have suffered excessively from mesothelioma;

(E) be engaged in research to provide mechanisms for detection and prevention of mesothelioma, particularly in the areas of pain management and cures;

(F) be engaged in public education about mesothelioma and prevention, screening, and treatment;

(G) be participants in the National Mesothelioma Registry; and

(H) be coordinating their research and treatment efforts with other Centers and institutions involved in exemplary mesothelioma research.

(d) BANKRUPTCY TRUST GUARANTEE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator shall have the authority to impose a pro rata surcharge on all participants under this subsection to ensure the liquidity of the Fund, if—

(A) the declared assets from 1 or more bankruptcy trusts established under a plan of reorganization confirmed and substantially consummated on or before July 31, 2004, are not available to the Fund because a final judgment that has been entered by a court and is no longer subject to any appeal or review has enjoined the transfer of assets required under section 524(j)(2) of title 11, United States Code (as amended by section 402(f) of this Act); and

(B) borrowing is insufficient to assure the Fund’s ability to meet its obligations under this Act such that the required borrowed amount is likely to increase the risk of termination of this Act under section 405 based on reasonable claims projections.

(e) LOCATIONS.—Any surcharge imposed under this subsection shall be imposed over a period of 5 years on a pro rata basis upon all participants, in accordance with each participant’s relative annual liability under this Act.

(2) CERTIFICATION.—
trust was established and had not been confirmed and substantially consummated and the proceeding under chapter 11 of title 11, United States Code, that resulted in the establishment of the bankruptcy trust had remained pending as of the date of enactment of this Act.

(b) INSURER PARTICIPANTS.—The aggregate amounts of all credits to which insurers are entitled to under section 202(c)(4)(A) of the Act.

SEC. 223. ENFORCEMENT OF PAYMENT OBLIGATIONS.

(a) DEFAULT.—If any participant fails to make any payment in the amount of and according to the schedule required under this subsection (c), the Administrator may seek recovery—

(A) to enforce the liability and any lien of the United States imposed under this section;

(B) to subject any property of the participant, including any property in which the participant has any right, title, or interest to the payment of such liability; or

(C) for temporary, preliminary, or permanent relief.

(b) ADDITIONAL PENALTIES.—In any action under paragraph (1) in which the refusal or failure to pay was willful, the Administrator may seek recovery—

(A) of punitive damages;

(B) of the cost of any civil action under this subsection, including reasonable fees incurred for collection, expert witnesses, and attorney’s fees; and

(C) in addition to any other penalty, of a fine equal to the total amount of the liability that has not been collected.

(c) ENFORCEMENT AUTHORITY AS TO INSURER PARTICIPANTS.

(1) IN GENERAL.—In addition to or in lieu of the enforcement remedies described in subsection (c), the Administrator may seek recovery of any payment not timely paid by an insurer participant under the procedures under this subsection.

(2) SUBROGATION.—To the extent required to establish personal jurisdiction over nonpaying insurer participants, the Administrator shall be deemed to be subrogated to the contractual rights of participants to seek recovery from nonpaying insurer participants that are domiciled outside the United States under the policies of liability insurance or contracts of liability reinsurance applicable to asbestos claims, and the Administrator may bring an action or an arbitration proceeding on behalf of such participants under the provisions of such policies and contracts, provided that—

(A) any amounts collected under this subsection shall not increase the amount of deemed erosion allocated to any policy or contract under section 404, or otherwise reduce the coverage available thereunder; and

(B) subrogation under this subsection shall have no effect on the validity of the insurance policies or reinsurance, and any contrary state law is expressly preempted.

(3) RECOVERABILITY OF CONTRIBUTION.—For purposes of this subsection—

(A) all contributions to the Fund required of a participant shall be deemed to be sums legally required to be paid for bodily injury resulting from exposure to asbestos;

(B) all contributions to the Fund required of a participant shall be deemed to be a single loss arising from a single occurrence under each contract to which the Administrator is subrogated; and

(C) with respect to reinsurance contracts, all contributions to the Fund required of a participant shall be deemed to be payments to a single claimant for a single loss.

(4) NO CREDIT OR OFFSET.—In any action brought under this subsection, the nonpaying insurer or reinsurer shall be entitled to no credit or offset for amounts collectible on or otherwise collected from any participant or shall not at such proceeding shall be made by the Administrator in any such proceeding shall not be binding on or attributed to the insurers or cedents in any other proceeding. The outcome of such a proceeding shall not have a prejudicial effect on the insureds or cedents in any other proceeding and shall not be admissible against any subrogee under this section. The Administrator shall have the right to settle or compromise any claims against a nonpaying insurer participant under this subsection.

(e) BAR ON UNITED STATES BUSINESS.—If any direct insurer or reinsurer refuses to furnish any information requested by or to pay any contribution required by this Act, then, in addition to any other penalties imposed by this Act, the Administrator may issue an order barring such entity and its affiliates from insuring risks located within the United States or otherwise doing business within the United States. Insurer participants or their affiliates seeking to obtain a license from any State to write any type of insurance shall be barred from obtaining any such license until payment of all contributions required as of the date of license application.

(f) CREDIT FOR REINSURANCE.—If the Administrator determines that an insurer participant that is a reinsurer is in default in paying any required contribution or otherwise not in compliance with this Act, the Administrator may issue an order barring such entity and its affiliates from reinsurance transactions with respect to any insurer participant or otherwise doing business within the United States. Insurer participants or their affiliates seeking to obtain a license from any State to write any type of insurance shall be barred from obtaining any such license until payment of all contributions required as of the date of license application.

(g) DEFENSE LIMITATION.—In any proceeding under this section, the participant shall be barred from bringing any challenge to the determination of the Administrator or the Asbestos insurers Commission regarding its liability under this Act, or to the constitutionality of this Act or any provision thereof that such challenge has been made during the review provided under section 204(1)(10), or in a judicial review proceeding under section 333.

(h) DEPOSIT OF FUNDS.

(1) IN GENERAL.—Any funds collected under subsection (c)(2) (A) or (C) shall be—
(a) in General.—The guidelines promul-
gated under this subsection shall establish criteria for participation in the medical screening program.

(b) Considerations.—In promulgating eligi-
bility criteria the Administrator shall take into consideration all factors relevant to the individual's effective cumulative ex-
posure to asbestos, including—

(1) any industry in which the individual worked;

(2) the individual's occupation and work setting;

(3) the historical period in which exposure took place;

(4) the duration of the exposure;

(5) the intensity and duration of non-occupa-
tional exposures; and

(6) any other factors that the Adminis-
trator determines.

(3) PROTOCOLS.—The guidelines developed under this subsection shall establish proto-
cols for medical screening, which shall in-
clude—

(1) administration of a health evaluation and work history questionnaire;

(2) an evaluation of smoking history;

(3) a physical examination by a qualified physician with a doctor-patient relationship with the individual;

(4) a chest radiograph by a certified radiologist, as defined under section 8012(a)(4); and

(5) pulmonary function testing as defined under section 8012(a)(13).

(4) FUNDING.—The Administrator shall establish the frequency with which medical screening shall be provided or made available to eligible individuals, which shall be no less than every 5 years.

(5) PROCEDURES.—The Administrator shall establish strict qualifica-
tions for the providers of such services, and shall periodically audit the providers of services under this subsection, to ensure their in-

(a) health and work history questionnaire;

(b) physical examination, including blood pressure measurement, chest examination, and evaluation of smoking history;

(c) spirometry performed according to ATS standards;

(d) qualifications of medical providers who are to provide the tests required under subpara-

(2) ELIGIBILITY CRITERIA.—

(1) Establishment of Program.—Not soon-
er than 18 months or later than 24 months after the Administrator certifies that the Fund is fully operational and processing claims at a reasonable rate, the Adminis-
trator shall adopt guidelines establishing a medical screening program for individuals at high risk of asbestos-related disease resulting from such disease-related disease. In pro-
mulgating such guidelines, the Adminis-
trator shall consider the views of the Advi-
sory Committee on Asbestos Disease Com-

(2) Eligibility Criteria.—
TITLE III—JUDICIAL REVIEW

SEC. 301. JUDICIAL REVIEW OF RULES AND REGULATIONS.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction over any action to review rules or regulations promulgated by the Administrator or the Asbestos Insurers Commission under this Act.

(b) PERIOD FOR FILING PETITION.—A petition for review under this section shall be filed not later than 60 days after the date justice of such promulgation appears in the Federal Register.

(c) EXPEDITED PROCEDURES.—The United States Court of Appeals for the District of Columbia shall provide for expedited procedures for reviews under this section.

SEC. 302. JUDICIAL REVIEW OF AWARD DECISIONS.

(a) IN GENERAL.—Any claimant adversely affected or aggrieved by a final decision of the Administrator awarding or denying compensation under title I may petition for judicial review of such decision. Any petition for review under this section shall be filed within 90 days of the issuance of a final decision of the Administrator.

(b) EXCLUSIVE JURISDICTION.—A petition for review may only be filed in the United States Court of Appeals for the circuit in which the claimant resides at the time of the issuance of the final order.

(c) STANDARD OF REVIEW.—The court shall uphold the decision of the Administrator unless the court determines, upon review of the record as a whole, that the decision is not supported by substantial evidence, is contrary to law, or is not in accordance with procedures prescribed in this title.

(d) EXPEDITED PROCEDURES.—The United States Court of Appeals shall provide for expedited procedures for reviews under this section.

SEC. 303. JUDICIAL REVIEW OF PARTICIPANTS’ ASSESSMENTS.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction over any action to review a final determination by the Administrator or the Asbestos Insurers Commission regarding the liability of any person to make a payment to the Fund, including a notice of applicable subterfuge assignment under section 204(c), a notice of financial hardship or inequity determination under section 204(d), and a notice of insurer participant obligation under section 212(b).

(b) PERIOD FOR FILING ACTION.—A petition for review under subsection (a) shall be filed not later than 60 days after a final determination by the Administrator or the Commission giving rise to the action. Any defendant participant who receives a notice of its applicable subterfuge assignment or a notice of financial hardship or inequity determination under section 204(d) shall commence any action within 30 days after a decision on rehearing under section 204(d)(10), and any defendant participant who receives a notice of a payment obligation under section 212(b) shall commence any action within 30 days after receiving such notice. The court shall give such action expedited consideration.

SEC. 304. OTHER JUDICIAL CHALLENGES.

(a) EXCLUSIVE JURISDICTION.—The United States District Court for the District of Columbia shall have exclusive jurisdiction over any action for declaratory or injunctive relief challenging any provision of this Act. An action under this section shall be filed not later than 90 days after the date of enactment of this Act or 60 days after the final action by the Administrator or the Commission giving rise to the action, whichever is later.

(b) DIRECT APPEAL.—A final decision in the action shall be reviewable on appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 30 days, and the filing of a jurisdictional statement within 60 days of the entry of the final decision.

(c) EXPEDITED PROCEEDURES.—It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

SEC. 305. STAYS, EXCLUSIVITY, AND CONSTITUTIONAL REVIEW.

(a) NO STAYS.—No court may issue a stay of payment by any party into the Fund pending its final judgment.

(b) EXCLUSIVITY OF REVIEW.—An action of the Administrator or the Asbestos Insurers Commission for which review could have been obtained under section 301, 302, or 303 shall not be subject to judicial review in any other proceeding.

(c) CONSTITUTIONAL REVIEW.—

(1) In determining any question as to whether any other provision of law, any interlocutory or final judgment, decree, or order of a Federal court holding this Act, or any provision of such Act, is constitutional, such judgment shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) PERIOD FOR FILING APPEAL.—Any such appeal shall be filed not more than 30 days after entry of such judgment, decree, or order.

(3) REPAYMENT TO ASBESTOS TRUST AND CLASS ACTIONS.—The transfer of the assets of any asbestos trust of a debtor or any class action trust or class action trust action within 90 days after final judicial action on the legal challenge, including the exhaustion of all appeals.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FALSE INFORMATION.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Fraud and false statements in connection with participation in Asbestos Injury Claims Resolution Fund. (a) FRAMERS OF ASBESTOS INJURY CLAIMS RESOLUTION FUND. — Whoever knowingly and willfully, for the purpose of defrauding or deceiving the Office of the Asbestos Insurers Commission or the Asbestos Insurers Commission under title II of the Fairness in Asbestos Injury Resolution Act of 2005 shall be fined under this title or imprisoned not more than 20 years, or both.

(b) FALSE STATEMENT RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND. — Whoever, in any matter involving the Office of Asbestos Disease Compensation or the Asbestos Insurers Commission, knowingly and willfully

(1) falsifies, conceals, or covers up any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statements or representations;

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement; or

(4) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation;

shall be fined under this title or imprisoned not more than 20 years, or both.

(5) FRAUD RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND. — Any person who in connection with participation in the Fairness in Asbestos Injury Resolution Act of 2005

(i) participates in a scheme to circumvent the identification of a claimant or the determination of a participant’s payment obligation under title I or II of the Fairness in Asbestos Injury Resolution Act of 2005 shall be fined under this title or imprisoned not more than 10 years, or both.

(ii) in furtherance of such scheme, knowingly and willfully

(b) DIRECT APPEAL.—A final decision in the action shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(c) EXPEDITED PROCEDURES.—It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

SEC. 306. STAYS, EXCLUSIVITY, AND CONSTITUTIONAL REVIEW.

(a) NO STAYS.—No court may issue a stay of payment by any party into the Fund pending its final judgment.

(b) EXCLUSIVITY OF REVIEW.—An action of the Administrator or the Asbestos Insurers Commission for which review could have been obtained under section 301, 302, or 303 shall not be subject to judicial review in any other proceeding.

(c) CONSTITUTIONAL REVIEW.—

(1) In determining any question as to whether any other provision of law, any interlocutory or final judgment, decree, or order of a Federal court holding this Act, or any provision of such Act, is constitutional, such judgment shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) PERIOD FOR FILING APPEAL.—Any such appeal shall be filed not more than 30 days after entry of such judgment, decree, or order.

(3) REPAYMENT TO ASBESTOS TRUST AND CLASS ACTIONS.—The transfer of the assets of any asbestos trust of a debtor or any class action trust or class action trust action within 90 days after final judicial action on the legal challenge, including the exhaustion of all appeals.

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(b) FALSE STATEMENT RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND. — Whoever, in any matter involving the Office of Asbestos Disease Compensation or the Asbestos Insurers Commission, knowingly and willfully

(1) falsifies, conceals, or covers up any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statements or representations;

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement; or

(4) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation;

shall be fined under this title or imprisoned not more than 20 years, or both.

(5) FRAUD RELATING TO ASBESTOS INJURY CLAIMS RESOLUTION FUND. — Any person who in connection with participation in the Fairness in Asbestos Injury Resolution Act of 2005

(i) participates in a scheme to circumvent the identification of a claimant or the determination of a participant’s payment obligation under title I or II of the Fairness in Asbestos Injury Resolution Act of 2005 shall be fined under this title or imprisoned not more than 10 years, or both.

(ii) in furtherance of such scheme, knowingly and willfully

...
the Fairness in Asbestos Injury Resolution Act of 2005, shall make payments in accordance with sections 202 and 203 of that Act.

(3) Treatment of Payment Obligations.—Any payment obligations of a debtor under sections 202 and 203 of the Fairness in Asbestos Injury Resolution Act of 2005 shall—

(A) constitute costs and expenses of administration of a case under section 503 of this title;

(B) notwithstanding any case pending under title 11, be fulfilled by a transfer of assets to the Fund in accordance with section 202 of that Act;

(C) not be stayed;

(D) not be affected as to enforcement or collection by any stay or injunction of any court; and

(E) not be impaired or discharged in any current or future case under this title.

(4) Treatment of Trusts.—Section 524 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

"(5) ASBESTOS TRUSTS.—

"(1) IN GENERAL.—A trust shall assign a portion of the corpus of the trust to the Asbestos Injury Claims Resolution Fund (referred to in this subsection as the ‘Fund’) as established by the Fairness in Asbestos Injury Resolution Act of 2005 if the trust qualifies as a ‘trust’ under section 201 of that Act.

"(2) TRANSFER OF TRUST ASSETS.—

"(A) IN GENERAL.—Any injunction issued as part of the formation of a trust described in paragraph (1) shall remain in full force and effect. No court, Federal or State, may enjoin the transfer of assets by a trust to the Fund in accordance with this subsection pending resolution of any litigation challenging such transfer or the validity of this subsection or of any provision of the Fairness in Asbestos Injury Resolution Act of 2005, and an interlocutory order denying such relief shall not be subject to immediate appeal under section 1291(a) of title 28.

"(B) AVAILABILITY OF FUND ASSETS.—Notwithstanding any other provision of law, once a trust has been made, the assets of the Fund shall be available to satisfy any final judgment entered in such an action and such transfer shall no longer be subject to any appeal under section 1291(a) of title 28.

"(C) LIEN.—In an insurance receivership proceeding involving a direct insurer, reinsurer or runoff participant, there shall be a lien in favor of the Fund for the amount of any asbestos claims against such insurer or runoff participant in receivership, except for the expenses of administration of the receiver and the perfected claims of the secured creditors. Any State law that provides for priorities inconsistent with this provision is preempted by this Act.

"(D) JURISDICTION.—Solely for purposes of implementing this subsection, personal jurisdiction over every covered trust, the Administrator or trustee thereof, and the Administrator’s representative (or runoff participant, there shall be a lien in favor of the Fund for the amount of any asbestos claims against such insurer or runoff participant in receivership, except for the expenses of administration of the receiver and the perfected claims of the secured creditors. Any State law that provides for priorities inconsistent with this provision is preempted by this Act.

(5) JURISDICTION.—Solely for purposes of implementing this subsection, personal jurisdiction over every covered trust, the Administrator or trustee thereof, and the Administrator’s representative (or runoff participant, there shall be a lien in favor of the Fund for the amount of any asbestos claims against such insurer or runoff participant in receivership, except for the expenses of administration of the receiver and the perfected claims of the secured creditors. Any State law that provides for priorities inconsistent with this provision is preempted by this Act.

(6) NO AVOIDANCE OF TRANSFER.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

"(b) Notwithstanding the rights and powers of a trustee under sections 541, 543, 544, 545, 547, 548, 549, and 550 of this title, if a debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005), the trustee may not avoid a transfer made by the debtor under its payment obligations under section 202 or 203 of that Act.

(7) CONFIRMATION OF PLAN.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

"(1) If the debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2005), the plan provides for the continuation after its effective date of payment of all payment obligations under title II of that Act.

(8) EFFECT ON INSURANCE RECEIVERSHIP PROCEEDINGS.—

"(1) In an insurance receivership proceeding involving a direct insurer, reinsurer or runoff participant, there shall be a lien in favor of the Fund for the amount of any asbestos claims against such insurer or runoff participant in receivership, except for the expenses of administration of the receiver and the perfected claims of the secured creditors. Any State law that provides for priorities inconsistent with this provision is preempted by this Act.

(9) PAYMENT OF ASSESSMENT.—Payment of any assessment required by this Act shall not be subject to any automatic or judicially entered stay in any insurance receivership proceeding. This Act does not require any State law requiring that payments by a direct insurer, reinsurer or runoff participant in an insurance receivership proceeding be applied by a court, or by any other person. Payments of assessments by any direct insurer or reinsurer participant under this Act shall not be subject to the avoidance powers of a receiver or a court in relating to an insurance receivership proceeding.

(10) STANDING IN BANKRUPTCY PROCEEDINGS.—The Administrator shall have standing in any bankruptcy proceeding involving a debtor participant. No bankruptcy court may require the Administrator to return property seized to satisfy obligations to the Fund.

SEC. 403. EFFECT ON OTHER LAWS AND EXISTING CLAIMS.

(a) EFFECT ON FEDERAL AND STATE LAW.—

"(1) IN GENERAL.—Nothing in this Act shall be construed to preempt, bar, restrict, or otherwise preclude the operation of any claim attributable to exposure to silica as to which the plaintiff—

"(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to preempt, bar, restrict, or otherwise preclude the operation of any claim attributable to exposure to silica as to which the plaintiff—

"(3) EFFECT ON SILICA CLAIMS.—

(1) IN GENERAL.—

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to preempt, bar, restrict, or otherwise preclude the operation of any claim attributable to exposure to silica as to which the plaintiff—
(ii) the settlement agreement contains an express obligation by the settling defendant or settling insurer to make a monetary payment or payments in a fixed amount or amounts to the individual plaintiff; and

(iii) within 30 days after the date of enactment of this Act, or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement are satisfied, so that the only remaining performance due under the settlement agreement is the payment or performance of rights or claims with respect to any such asbestos claim.

(c) COLLATERAL SOURCE.—Any settlement payment under this section is a collateral source of any any asbestos claim by any participant, including any claim described in paragraph (2), the remedies provided under subsection (d) are preempted by this Act.

(d) REMOVAL.—Except as provided under paragraph (2), no action other than a judgment for dismissal of any asbestos claim may be removed to the district court of the United States for the district in which the action was brought or pursued in any Federal or State court (not including a filing in a bankruptcy court).

(e) BANRUPTCY-RELATED AGREEMENTS.—Any action asserting an asbestos claim, including any claim described in paragraph (2), in any Federal or State court is preempted by this Act, except as provided under subsection (d)(2).

(f) DISMISSAL.—Except as provided under subsection (2), no judgment for dismissal of any asbestos claim may be entered in any Federal or State court, including in any action pending on the date of enactement of this Act, or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement are satisfied, so that the only remaining performance due under the settlement agreement is the payment or performance of rights or claims with respect to any such asbestos claim.

(g) NONAPPLICABILITY.—This Act shall not apply to claims against parties—

(i) with whom the plaintiff is in privity of contract;

(ii) who have received an assignment of insurance rights not otherwise voided by this Act; or

(iii) who are beneficiaries covered by the express terms of a contract with that participant.

(h) REMOVAL.—Except as provided in paragraph (2), no action other than a judgment for dismissal of any asbestos claim may be removed to any Federal or State court, including in any action pending on the date of enactment of this Act or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement are satisfied, so that the only remaining performance due under the settlement agreement is the payment or performance of rights or claims with respect to any such asbestos claim.

(i) BANRUPTCY-RELATED AGREEMENTS.—Any action asserting an asbestos claim, including any claim described in paragraph (2), in any Federal or State court is preempted by this Act, except as provided under subsection (d)(2).

(j) DISMISSAL.—Except as provided under subsection (2), no judgment for dismissal of any asbestos claim may be entered in any Federal or State court, including in any action pending on the date of enactment of this Act or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement are satisfied, so that the only remaining performance due under the settlement agreement is the payment or performance of rights or claims with respect to any such asbestos claim.

(k) NONAPPLICABILITY.—This Act shall not apply to claims against parties—

(i) with whom the plaintiff is in privity of contract;

(ii) who have received an assignment of insurance rights not otherwise voided by this Act; or

(iii) who are beneficiaries covered by the express terms of a contract with that participant.

(l) REMOVAL.—Except as provided in paragraph (2), no action other than a judgment for dismissal of any asbestos claim may be removed to any Federal or State court, including in any action pending on the date of enactment of this Act or such shorter time period specified in the settlement agreement, all conditions to payment under the settlement agreement are satisfied, so that the only remaining performance due under the settlement agreement is the payment or performance of rights or claims with respect to any such asbestos claim.
actions pending (including on appeal) on the date of enactment of this Act.

(D) REVIEW OF REMAND ORDERS.—

(i) IN GENERAL.—Section 447 of title 28, United States Code, shall apply to any remand of a case under this section, except that notwithstanding subsection (d) of that section, a court of appeals may accept an appeal from a district court granting or denying a motion to remand an action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

(ii) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under clause (i), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which the appeal was filed, unless an extension is granted under clause (iii).

(iii) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in clause (ii) if—

(I) all parties to the proceeding agree to such extension, for any period of time; or

(II) such extension is for good cause shown and in the interest of justice, for a period not to exceed 10 days.

(iv) DENIAL OF APPEAL.—If a final judgment on the appeal under clause (i) is not issued before the period described in clause (ii), including any extension under clause (iii), the appeal shall be denied.

(E) JURISDICTION.—The jurisdiction of the district court shall be limited to—

(I) all parties to the proceeding agree to such extension, for any period of time; or

(II) such extension is for good cause shown and in the interest of justice, for a period not to exceed 10 days.

(F) EARLY SUNSET.—The term "early sunset" means the date of enactment of this Act.

(G) CREDITS.—

(A) EROSION UPON ENACTMENT.—The collection of this Act from each defendant participant shall be deemed applicable to the total amount due under the "products hazard", "completed operations hazard", or "Products—Completed Operations Liability" in any comprehensive general liability policy issued between calendar years 1940 and 1986 to cover injury or death of persons and property, or bodily injury arising out of that insurer's or reinsurer's payments to the Fund or the erosion deemed to occur under this section.

(B) REMAINING AGGREGATE PRODUCT LIMITS.—The term "remaining aggregate product limits" means aggregate limits that apply to insurance coverage granted under the "products hazard", "completed operations hazard", or "Products—Completed Operations Liability" in any comprehensive general liability policy issued between calendar years 1940 and 1986 to cover injury or death of persons and property, or bodily injury arising out of that insurer's or reinsurer's payments to the Fund or the erosion deemed to occur under this section.

(C) EARLY EROSION AMOUNT.—The term "early erosion amount" means, in the event of any early sunset under section 405(f), the difference between the following schedule, depending on the year in which the defendant's policies' funding obligations end, and the amounts which, at the time of the early sunset, a defendant participant has paid to the fund and remains obligated to pay into the fund.

<table>
<thead>
<tr>
<th>Year After Enactment in Which Defendant Participant's Funding Obligation Ends</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>76.06</td>
</tr>
<tr>
<td>2013</td>
<td>86.72</td>
</tr>
<tr>
<td>2014</td>
<td>97.55</td>
</tr>
<tr>
<td>2015</td>
<td>108.45</td>
</tr>
<tr>
<td>2016</td>
<td>119.32</td>
</tr>
<tr>
<td>2017</td>
<td>130.24</td>
</tr>
<tr>
<td>2018</td>
<td>141.18</td>
</tr>
<tr>
<td>2019</td>
<td>152.10</td>
</tr>
<tr>
<td>2020</td>
<td>163.06</td>
</tr>
<tr>
<td>2021</td>
<td>174.03</td>
</tr>
<tr>
<td>2022</td>
<td>185.00</td>
</tr>
<tr>
<td>2023</td>
<td>196.00</td>
</tr>
</tbody>
</table>

(D) REMAINING AGGREGATE PRODUCT LIMITS.—The term "remaining aggregate product limits" means aggregate limits that apply to insurance coverage granted under the "products hazard", "completed operations hazard", or "Products—Completed Operations Liability" in any comprehensive general liability policy issued between calendar years 1940 and 1986 to cover injury or death of persons and property, or bodily injury arising out of that insurer's or reinsurer's payments to the Fund or the erosion deemed to occur under this section.

(E) SCHEDULED PAYMENT AMOUNTS.—The term "scheduled payment amounts" means the amount of the single payment obligation for the entire affiliated group, the total erosion limits for any individual defendant participant in the affiliated group shall not exceed its individual share of 59.64 percent of the affiliated group's scheduled payment amount, as measured by the individual participant's percentage share of the affiliated group's prior asbestos expenditures.

(F) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be deemed to preclude any defendant participant from entering into any settlement agreement that may be available under the general liability policy or limit the defendant participant's right to seek coverage for asbestos claims under an insurer participant's policies, any
remaining limits in such policies shall not be considered to be remaining aggregate products
limits under subsection (a)(1)(A).

(4) RESTORATION OF AGGREGATE PRODUCTS
LIMITS UPON EARLY SUNSET.—

(A) RESTORATION.—In the event of an early sunset, any unearned erosion amount will be
denominated as aggregate products limits available to a defendant participant as of the
date of enactment.

(B) METHOD OF RESTORATION.—The un-
earned erosion amount will be denominated to defendant participant’s pol-
policies in such a manner that the last limits that were deemed eroded at enactment under this
section shall be the first limits restored upon early sunset.

(C) TOLLING OF COVERAGE CLAIMS.—In the event of an early sunset, the applicable stat-
tute of contractual limitations for the filing of claims under any insurance policy with restored aggregate products
limits shall be deemed tolled after the date of enactment through the 6 months after the
date of early sunset.

(5) PAYMENTS BY DEFENDANT PARTICIPANT.—
Payments made by a defendant participant shall be deemed to be erode, exhaust, or other-
wise satisfy applicable self-insured retentions, deductibles, retrospectively rated pre-
miums, and limits issued by nonparticipating insurance companies. Reduction of remaining aggregate limits
under this subsection shall not limit the right of any defendant participant to collect from any insurer or participant.

(6) EFFECT ON OTHER INSURANCE CLAIMS.—
Other than as specified in this subsection, this Act does not alter, change, modify, or
affect insurance for claims other than asbes-
tos claims.

(b) DISPUTE RESOLUTION PROCEDURES
(1) ADMINISTRATION.—The parties to a dispute regarding the erosion of insurance coverage limits
under this section may agree in writ-
ing to settle such dispute by arbitration. Any such provision or agreement shall be
valid, irrevocable, and enforceable, except for any grounds that exist at law or in equity
for rescission of a contract.

(2) TITLE 9, UNITED STATES CODE.—Arbitra-
tion of such disputes, awards by arbitrators, and confirmation of awards shall be governed
by title 9, United States Code, to the extent such is applicable, consistent with
such provision.

In any such arbitration proceeding, the erosion principles provided for under this section
shall be binding on the arbitrator, unless the claimants agree to the contrary.

(3) FINAL AND BINDING AWARD.—An award
by an arbitrator shall be final and binding between the parties to the arbitration, but
shall have no force or effect on any other person. The parties to an arbitration may agree
that in the event a policy which is the subject of an award is subsequently determined to be eroded in a manner dif-
erent from the manner determined by the arbitration in a judgment rendered by a court of competent jurisdiction upon
application by any party to the arbitration. Any such modification shall govern the rights and ob-
ligations between such parties after the date of such modification.

(c) NONPARTICIPANTS.—

(1) IN GENERAL.—No insurance company or
reinsurance company that is not a partici-
pant, other than a captive insurer, shall be entitled to payments to the
fund erode, exhaust, or otherwise limit the non-
participant’s insurance or reinsurance oblig-
ations.

(d) OTHER CLAIMS.—Nothing in this Act shall
make a participant from pursuing any claim for insurance or reinsurance from
any person that is not a participant other than a captive insurer.

(3) EFFECT ON CERTAIN INSURANCE AND RE-
INSURANCE CLAIMS.—

(1) NO COVERAGE FOR FUND ASSESSMENTS.—
No participant or captive insurer may pursue
an insurance or reinsurance claim against
another participant or captive insurer for
payments to the Fund required under this
Act, except under a contract specifically pro-
viding insurance or reinsurance for required
payments to a Federal trust fund established
by a Federal statute to resolve asbestos in-
jury claims.

(2) EFFECT ON CERTAIN INSURANCE AND RE-
INSURANCE CLAIMS.—

(1) NO COVERAGE FOR FUND ASSESSMENTS.—
No participant or captive insurer may pursue
a claim against another participant or captive insurer for
payments to the Fund required under this
Act, except under a contract specifically pro-
viding insurance or reinsurance for required
payments to a Federal trust fund established
by a Federal statute to resolve asbestos in-
jury claims or, where applicable, under finite
risk policies under section (d).

(2) CERTAIN INSURANCE ASSIGNMENTS VOID-
ED.—Any assignment of any rights to insur-
ance coverage for asbestos claims to any per-
son who has asserted an asbestos claim be-
fore the date of enactment of this Act, or to
any trust, person, or other entity not part of
an affiliated group as defined in section
201(1) of this Act established or appointed for
the purpose of paying asbestos claims which
were asserted before such date of enactment,
or by any Tier I defendant participant, be-
fore the date of enactment, shall be null and
void. This subsection shall not void or affect
in any way any assignments of rights to in-
urance coverage to asbestos claims or to
asbestos claims, but such asser-
tions made by the Office under section 114;

(A) the number of claims made to the Of-
fice and a description of the types of medical
diagnoses and asbestos exposures underlying
those claims;

(B) the number of claims denied by the Of-
fice and a description of the types of medical
diagnoses and asbestos exposures underlying
those claims, and a general description of the
reasons for their denial;

(C) a summary of the eligibility determina-
tions made by the Office under section 114;

(D) a summary of the awards made from
the Fund, including the amount of the awards;

(E) for each eligible condition, a statement
of the percentage of asbestos claimants who
filed claims during the prior calendar year
and were determined to be eligible to receive
compensation under this Act, who have re-
cieved the compensation to which such
claimants are entitled according to section
113;

(2) the administrative performance of the
program, including—

(A) the performance of the program in
meeting the time limits prescribed by law
and an analysis of the reasons for any sys-
temic delays;

(B) any backlogs of claims that may exist
and an explanation of the reasons for such
backlogs;

(C) the costs to the Fund of administering
the program; and

(D) any other significant factors bearing on
the efficiency of the program;

(3) the financial condition of the Fund, in-
cluding—

(A) statements of the Fund’s revenues, ex-
penses, assets, and liabilities;

(B) the identity of all participants, the
funding allocations of each participant, and
the total amounts of all payments to the Fund;

(C) a list of all financial hardship or ine-
quity adjustments applied for during the
fiscal year, and the adjustments that were
made during the fiscal year;

(D) a statement of the investments of the
Fund; and

(E) a statement of the borrowings of the
Fund;

(4) the financial prospects of the Fund, in-
cluding—

(A) an estimate of the number and types of
claims, the amount of awards, and the par-
ticipant payment obligations for the next
fiscal year;

(B) an analysis of the financial condition of
the program, including an estimate of the
Fund’s ability to pay claims for the subse-
quent 5 years in full as and when required, an
analysis of the Fund’s ability to retire its
existing debt and assume additional debt, and
an evaluation of the Fund’s ability to
satisfy other obligations under the fund;

and

(C) a report on any changes in projections
made in earlier annual reports or sunset
analyses regarding the Fund’s ability to
meet its financial obligations;

recommendations from the Advi-
sory Committee on Asbestos Disease
Compensation and the Medical Advisory
Committee of the Fund to improve the diag-
nosis and medical criteria of asbestos
asbestos claimants whose injuries are caused by exposure to asbestos;
(6) a summary of the results of audits conducted under section 115; and
(7) a summary of prosecutions under section 1436 of title 18, United States Code (as added by section 107).
(c) CLAIMS ANALYSIS.—If the Administrator concludes, on the basis of the annual report submitted under this subsection, that the Fund is compensating claims for injuries that are not caused by exposure to asbestos and compensating such claims may, currently or in the future, impair the Fund’s ability to compensate persons with injuries that are caused by exposure to asbestos, the Administrator shall include in the report an analysis of the situation, a description of the range of reasonable alternatives for responding to the situation, and a recommendation as to which alternative best serves the interest of claimants and the public.

The report shall include a description of changes in the diagnostic, exposure, or medical criteria of section 121 that the Administrator believes may be necessary to protect the Fund from compensating claims not caused by exposure to asbestos.

(d) SHORTFALL ANALYSIS.—
(1) IN GENERAL.—
(A) ANALYSIS.—If the Administrator concludes, on the basis of the information contained in the report submitted under this section, that the Fund may not be able to pay claims as such claims become due, on any time within the next 5 years, a description of changes in the diagnostic, exposure, or medical criteria of section 121 that the Administrator believes may be necessary to protect the Fund.

(B) RANGE OF ALTERNATIVES.—The range of alternatives under subparagraph (A) may include—
(i) triggering the termination of this Act under subsection (f) at any time after the date of enactment of this Act; and
(ii) program set forth in titles I and II of this Act (including changes in the diagnostic, exposure, or medical criteria of section 121 that the Administrator believes may be necessary to protect the Fund).

(2) CONSIDERATIONS.—In formulating recommendations, the Administrator shall take into account the reasons for any shortfall, actual or projected, which may include—
(A) financial factors, including return on investment, borrowing capacity, interest rates, ability to collect contributions, and other financial factors;
(B) the operation of the Fund generally, including administration of the claims processing, the ability of the Administrator to collect contributions from participating companies, potential problems of fraud, the adequacy of the criteria to rule out idiopathic mesothelioma, and inadequate flexibility to extend the timing of claims payments;
(C) the appropriateness of the diagnostic, exposure, and medical criteria, including the adequacy of the criteria to rule out idiopathic mesothelioma;
(D) the actual incidence of asbestos-related diseases, including mesothelioma, based on epidemiological studies and other relevant data;
(E) compensation of diseases with alternative causes; and
(F) other factors that the Administrator considers relevant.

(3) RECOMMENDATION OF TERMINATION.—Any recommendation of termination should include a plan for winding up the Fund and the program generally, including paying claims resolved at the time the recommendation is made.

(4) RESOLVED CLAIMS.—For purposes of this section, a claim shall be deemed resolved when the Administrator has determined the amount of the award due the claimant, and either the claimant has not received a final decision on the time for judicial review or the time for judicial review has expired.

(e) RECOMMENDATIONS OF ADMINISTRATOR AND COMMISSION.—
(1) IN GENERAL.—If the Administrator recommends changes to this Act under subsection (c), the recommendations and accompanying analysis shall be referred to a special commission consisting of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of the Treasury, and the Secretary of Commerce. The Commission shall hold public hearings on the Administrator’s alternatives and recommendations and then make its own recommendations to Congress in the same manner as set forth in subsection (a).

(B) REFERERAL.—If the Administrator recommends changes to this Act under subsection (d), the recommendations and accompanying analysis shall be referred to the Commission. The Commission shall hold public hearings on the Administrator’s alternatives and recommendations and then make its own recommendations to Congress in the same manner as set forth in subsection (a).

(f) SUNSET OF ACT.—
(1) IN GENERAL.—
(A) TERMINATION.—Subject to paragraph (4), titles I (except subtitle A) and II and sections 403 and 404(e)(2) shall terminate as provided under paragraph (2), if the Administrator—
(i) has begun the processing of claims; and
(ii) as part of the review conducted to prepare an annual report under this section, determines that if additional claims are resolved, the Fund will not have sufficient resources when needed to pay 100 percent of all resolved claims while also meeting all other obligations of the Fund under this Act, including the payment of—
(I) debt repayment obligations; and
(II) remaining obligations to the asbestos trust of a debtor and the class action trust.

(B) REMAINING OBLIGATIONS.—For purposes of subparagraph (A)(ii), the remaining obligations to the asbestos trust of a debtor and the class action trust shall be determined by the Administrator by assuming that, instead of a lump-sum payment, such trust had transferred its assets to the Fund on a schedule and amount that would provide for priority in payment to the claimants with the most serious illnesses.

(C) PAYMENT TO ASBESTOS TRUSTS AND CLASS ACTION TRUST.—The amounts determined under paragraph (1)(B) for payment to the asbestos trusts and the class action trust shall be transferred to the respective asbestos trusts of the debtor and the class action trust within 90 days.

(g) NATURE OF CLAIM AFTER SUNSET.—
(1) IN GENERAL.—
(A) RELIEF.—On and after the term of this Act, any individual who has had a claim resolved by the Fund, may in a civil action obtain relief in damages subject to the terms and conditions under this subsection and paragraph (6) of subsection (f).

(B) RESOLVED CLAIMS.—An individual who has had a claim resolved by the Fund may not pursue a court action, except that an individual who received an asbestos-related disease (Levels I through V) from the Fund may assert a claim for a subsequent or progressive disease under this subsection, unless the disease was diagnosed or the claimant had discovered facts that would have led a reasonable person to obtain such
obtain such a diagnosis before the date on subsection, unless the mesothelioma was diagnosed before on levels I through VIII from the Fund may been established, whether such claim names asbestos claims, if necessary in proportionwise specifically provided in this Act, nothing in this Act shall be construed as creating any cause of action against the United States Government, any entity established under this Act, or any officer or employee of the United States Government or such entity.

(b) Mesothehlioma—Nothing in this Act shall be construed to—

(1) create any obligation of funding from the United States Government, other than the funding provided for in section 129 of this Act, to support and assist as provided under this Act; or

(2) obligate the United States Government to pay any award or part of an award, if the award is a mesothelioma asbestos claim that might otherwise exist under subsection (f)(8) to the action trust to which the Administrator has been transferred pursuant to section 7 of this Act. SEC. 407. RULES OF CONSTRUCTION.

(a) Libby, Montana Claimants—Nothing in this Act shall preempt the formation of the Trust for the purpose of funding medical expenses related to treating asbestos-related disease for current and former residents of Libby, Montana. Any such medical expenses shall not be collateral source compensation as defined under section 1396(a).

(b) Healthcare From Provider of Choice—Nothing in this Act shall be construed to preclude any eligible claimant from receiving healthcare from the provider of their choice.

SEC. 408. VIOLATIONS OF ENVIRONMENTAL HEALTH AND SAFETY REQUIREMENTS.

(a) Asbestos in Commerce.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may be a violation of standards issued by the Environmental Protection Agency under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), relating to the manufacture, importation, processing, disposal, and distribution in commerce of asbestos-containing products, the Administrator shall refer the matter in writing to the United States attorney for possible civil or criminal penalties, including those under section 17 of the Toxic Substances Control Act (15 U.S.C. 2616), and to the appropriate State authority with jurisdiction to investigate asbestos matters.

(b) Asbestos as Air Pollutant.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may have been a violation of standards issued by the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.), relating to asbestos, the Administrator shall refer the matter in writing to the United States attorney for possible civil or criminal penalties, including those under section 17 of the Toxic Substances Control Act (15 U.S.C. 2616), and to the appropriate State authority with jurisdiction to investigate asbestos matters.

(c) Occupational Exposure.—If the Administrator receives information concerning conduct occurring after the date of enactment of this Act that may have been a violation of standards issued by the Occupational Safety and Health Administration under the Occupational Safety and Health Act (29 U.S.C. 656(e)) is amended—

(1) by striking “Any” and inserting “(1) Except as provided in paragraph (2), any”; and

(2) by adding at the end the following:

“(2) Any employer who willfully violates any standard issued under section 6 with respect to the control of occupational exposure to asbestos, shall upon conviction be punished by a fine not more than $5,000 for each violation, except that if the violation is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or both.”.

(d) Enhanced Criminal Penalties for Willful Violations of Occupational Standards for Asbestos.—Section 17(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(e)) is amended—

(1) by striking “Any” and inserting “(1) Except as provided in paragraph (2), any”; and

(2) by adding at the end the following:

“(2) Any employer who willfully violates any standard issued under section 6 with respect to the control of occupational exposure to asbestos, shall upon conviction be punished by a fine not more than $5,000 for each violation, except that if the violation is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or both.”.
SEC. 501. PROHIBITION ON ASBESTOS CON-
TAINING PRODUCTS.

(a) In General.—Title II of the Toxic Sub-
stances Control Act (15 U.S.C. 2601 et seq.) is
amended by inserting before section 201 (15 U.S.C. 2641 et seq.) the following:

"Subtitle A—General Provisions; and

(2) by adding at the end the following:

"Subtitle B—Ban of Asbestos Containing

products.

(a) Definitions.—In this chapter:

(1) ADMINISTRATOR.—The term ‘Adminis-
trator’ means the Administrator of the Envi-
ronmental Protection Agency.

(2) ASBESTOS.—The term ‘asbestos’ in-
cludes—

(A) chrysotile;

(B) amosite;

(C) crocidolite;

(D) tremolite asbestos;

(E) winchite asbestos;

(F) richterite asbestos;

(G) anthophyllite asbestos;

(H) actinolite asbestos;

(I) any of the minerals listed under sub-
paragraphs (A) through (J) that has been
chemically treated or altered, and any
asbestosferrite, variety, type, or component thereof.

(B) ASBESTOS CONTAINING PRODUCT.—
The term ‘asbestos containing product’ means any
product (including any part) to which ‘asbestos
fibers’ are added or used because the specific
properties of asbestos are necessary for product use or func-
tion. Under no circumstances shall the term ‘asbestos
containing product’ be construed to
include products that contain de minimus
levels of naturally occurring asbestos as de-

fixed by the Administrator not later than 1 year after the date of enactment of this chapter.

(c) Exemptions.—

(i) In General.—Any person may petition
the Secretary for, and the Adminis-
trator may grant, an exemption from the re-
quirements of subsection (b), if the Adminis-
trator determines that—

(1) the exemption would not result in an
unreasonable risk of injury to public health
or the environment; and

(2) the person has made good faith efforts
to develop, but has been unable to develop,
substance, or identify a mineral that does not
present an unreasonable risk of injury to
public health or the environment and may be
substituted for an asbestos containing
product.

(2) TERMS AND CONDITIONS.—An exemption
granted under this subsection shall be in ef-
fect for such period (not to exceed 5 years) as
subject to such terms and conditions as the Adminis-
trator may prescribe.

(3) GOVERNMENTAL USE.—

(A) In General.—The Administrator of
the National Aeronautics and Space Adminis-
tration shall provide an exemption from the
requirements of subsection (b), without review or
limit on duration, if such exemption for an
asbestos containing product is—

(i) sought by the Secretary of Defense and
the Secretary certifies, and provides a copy of
that certification to Congress, that—

(II) use of the asbestos containing product
is necessary to the critical functions of the
Department;

(III) use of asbestos containing product exist for the in-
tended purpose; and

(II) any of the minerals listed in subsection (d) that
has been chemically treated or altered, and any
asbestosferrite, variety, type, or component thereof.

(3) ASBESTOS CONTAINING PRODUCT.—The
term ‘asbestos containing product’ means any
product (including any part) to which ‘asbestos
fibers’ are added or used because the specific properties of
asbestos are necessary for product use or func-
tion. Under no circumstances shall the term
‘asbestos containing product’ be construed to
include products that contain de minimus
levels of naturally occurring asbestos as de-
"(II) no reasonable alternatives to the asbestos containing product exist for the intended purpose; and

"(III) the use of the asbestos containing product will result in an unreasonable risk to health or the environment.

"(B) ADMINISTRATIVE PROCEDURE ACT.—Any certification required under subparagraph (A) shall be subject to chapter 5 of title 5, United States Code (commonly referred to as the ‘Administrative Procedure Act’).

"(4) SPECIFIC EXEMPTIONS.—The following are exempted:

"(A) Asbestos diaphragms for use in the manufacture of chlor-alkali and the products and derivative thereof.

"(B) Roofing cements, coatings, and mastics utilizing asbestos that is totally encapsulated with asphalt, subject to a determination by the Administrator of the Environmental Protection Agency under paragraph (5).

"(5) ENVIRONMENTAL PROTECTION AGENCY REVIEW.—

"(A) REVIEW IN 18 MONTHS.—Not later than 18 months after the date of enactment of this chapter, the Administrator of the Environmental Protection Agency shall complete a review of the exemption for roofing cements, coatings, and mastics utilizing asbestos that is totally encapsulated with asphalt.

"(B) REVOCATION OF EXEMPTION.—Upon completion of the review, the Administrator of the Environmental Protection Agency shall have the authority to revoke the exemption for the products exempted under paragraph (4)(B), if warranted.

"(d) DISPOSAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of enactment of this chapter, each person that possesses an asbestos containing product that is subject to the prohibition established under this section shall dispose of the asbestos containing product, by a means that is in compliance with applicable Federal, State, and local requirements.

"(2) EXEMPTION.—Nothing in paragraph (1)—

"(A) applies to an asbestos containing product that—

"(i) is no longer in the stream of commerce; or

"(ii) is in the possession of an end user or a person who purchases or receives an asbestos containing product directly or indirectly from an end user; or

"(B) requires that an asbestos containing product described in subparagraph (A) be removed or replaced.

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

"(1) by inserting before the item relating to section 201 the following:

"’SUBTITLE A—GENERAL PROVISIONS’’;

and

"(2) by adding at the end of the items relating to title II the following:

"’SUBTITLE B—BAN OF ASBESTOS CONTAINING PRODUCTS

’Sec. 221. Ban of asbestos containing products.

Mr. LEAHY. Mr. President, this day has been a long time in coming, and I am pleased to join the Chairman of the Judiciary Committee, Senator FEINSTEIN, and others in sponsoring bipartisan legislation to address the serious problem of asbestos-related disease. It is the product of years of difficult and conscientious craftsmanship and negotiation. Building on the Committee’s work under Chairman HATCH, we have worked hard to produce a balanced bill that offers fair solutions.

We are encouraged by the favorable reception that this bill has already generated from a wide array of interested parties. In the past week, I have received letters of support from the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, the Veterans of Foreign Wars of the United States, VFW, the Asbestos Study Group, and others. The UAW notes in its April 6th letter that Senator SPECTER might have produced a bill that is in compliance with applicable Federal, State, and local requirements.

There is widespread agreement that the asbestos compensation system has not worked. Over several years ago, the asbestos compensation system has been held up. The economic harm caused by asbestos exposure is real, and the bankruptcies are totally encapsulated with asphalt.

We are pleased to join the Chairman of the Judiciary Committee, Senator SPECTER, with whom I have worked so hard on this legislation, rightly calls this one of the most complex issues we have ever tackled. It is the bill that I would have written, were I alone responsible for its drafting. Nor is it the bill that Senator SPECTER might have produced. Nor should anyone be surprised to hear that the interested groups—the labor organizations, the industrial participants in the trust fund, their insurers, the Department of Justice, the Department of Labor, and the Department of Health and Human Services who are sick and dying the opportunity to secure timely and fair compensation for the injury they suffered in the course of serving their country. The National Association of Manufacturers also released a statement expressing their support for the legislation which will end gender bias support.

These statements in many ways tell the story of what we have already accomplished: We have drafted a bill that has garnered a favorable response from labor, manufacturers, and companies with considerable asbestos liabilities. We have worked on this legislation for several years now, and I can assure you that garnering this level of consensus has been no small feat. I ask unanimously that the contents of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UAW, Washington, DC, April 11, 2005.

DEAR SENATOR: Senators Spector and Leahy recently put forward a compromise asbestos compensation proposal, and have indicated that they intend to introduce legislation incorporating this proposal early next week. The UAW supports the Specter-Leahy asbestos compensation proposal because we believe it will provide more equitable, timely and certain compensation to the victims of asbestos-related disease.

The economic harm caused by asbestos is also real, and the bankruptcies are totally encapsulated with asphalt.

Asbestos and mastics utilizing asbestos that are totally encapsulated with asphalt to derive therefrom.
The Specter-Leahy proposal would address these problems by replacing the current tort system with a national asbestos trust fund to compensate the victims of asbestos-related diseases. This approach would offer all victims of asbestos-related diseases, including all veterans suffering from asbestos-related illnesses, a single, timely, equitable, and certain compensation system. The UAW also is pleased that the Specter-Leahy proposal provides for the creation of a trust fund, thereby concentrating the financial burden on a broad segment of the business and insurance community. We believe this broad-based, predictable financing mechanism is vastly preferable to the current tort system, which is totally inadequate to provide compensation to all victims. The UAW is especially pleased that the Specter-Leahy proposal establishes a mechanism for defendant companies and insurers to contribute to the national asbestos compensation fund, thereby spreading the costs of compensation across a broad segment of the business and insurance community. We believe this broad-based, predictable financing mechanism is vastly preferable to the current tort system, which is totally inadequate to provide compensation to all victims.

The Specter-Leahy proposal also provides for the creation of a trust fund, thereby concentrating the financial burden on a broad segment of the business and insurance community. We believe this broad-based, predictable financing mechanism is vastly preferable to the current tort system, which is totally inadequate to provide compensation to all victims. The UAW also recognizes that the Specter-Leahy proposal represents a compromise that makes sense. In our judgment, the Specter-Leahy proposal is far superior to the current tort system, which has driven most asbestos manufacturers into bankruptcy and is threatening the economic viability of many other companies that used products containing asbestos, thereby jeopardizing the jobs of tens of thousands of workers.

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There are other improvements to the trust fund plan over last year's effort. The previous legislation provided no incentive for the fund to start processing claims. The Specter-Leahy-Feinstein bill creates an incentive for the fund to start processing claims quickly: If it is not operational within 9 months, the sickest victims will be able to return to the tort system. If the fund is not operational within 24 months, all victims can return to the tort system.

In improving the way the asbestos legislation handles exquist claims—those victims who are sickest and may not have long to live—Senator Feinstein was instrumental in developing a creative solution. I thank the senior Senator from California for her tireless efforts on behalf of sick and dying asbestos victims. These victims should not be forced to wait a year while this new trust fund gets organized and ready to provide. Senator Feinstein's approach, which we adopted, exquist cases would receive an immediate lump-sum payment, and, as I noted earlier, if the fund is not operational in nine months, these sickest victims will be able to continue their cases in court.

As part of this compromise legislation, a particular class of lung cancer sufferers, those who have had significant asbestos exposure but no markings of asbestos exposure, are not treated as compensable victims for purposes of the asbestos trust fund. Because of the absence of markings, it is not possible to establish asbestoses as the cause of their disease. If they develop marknings, however, they will become eligible for compensation from the asbestos trust fund. As with many other administrative claims processes, this bill sets a limit on attorneys' fees. In connection with this asbestos fund, the limit is set at 5 percent on victims' awards. With this in addition, in order to prevent victims of asbestos exposure from retoeing their complaints to circumvent the asbestos trust fund, the bill also imposes a higher burden of proof within the tort system for plainiffs seeking damages resulting from exposure to silica.

The problems we are addressing are complex, this bill necessarily reflects these complexities, and its drafting was not easy. The compromises we had to make were necessary to ensure that we created a trust fund that would provide adequate compensaion to the thousands of workers who have suffered, and continue to suffer, the devastating health effect of asbestos. To prevent the worst possible asbestos exposures in the future, the Congress has underwritten the High Point Market to an extent that is unprecedented in the history of this Congress, and the High Point Market has over the next five years is a $250 million investment in the economy that is too large to abandon.

I think of the staffs who have worked so diligently on this bill. On my staff, I single out Ed Pagano, who was a lead counsel of the Democrats, along with Kristine Lucius on our side. On Senator Specter's side, we were helped so much by Sessa Singh.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 113—EXPRESSING SUPPORT FOR THE INTERNATIONAL HOME FURNISHINGS MARKET IN HIGH POINT, NORTH CAROLINA

Whereas the International Home Furnishings Market in High Point, North Carolina, is the largest and most significant market for the American home furnishing industry, leaving the question of the impact of the market on the local economy is declining due to offshore production of the US economy is declining due to offshore production; and
Whereas the High Point Market attracts an average of 2,500 exhibitors from around the world, with international exhibitors contributing more than 10 percent of the exhibitors at the event; and
Whereas the exhibits at the High Point Market encompass a wide variety of products, including case goods (wood furniture), upholstery, accessories, lighting, bedding, and rugs; and
Whereas the High Point Market has more than 11,500,000 square feet of permanent showroom space in more than 180 separate buildings in High Point and Thomasville, North Carolina; and
Whereas the High Point Market is located in the High Point Metropolitan Statistical Area, which has a population of more than 350,000 people; and
Whereas the High Point Market is a vital engine for economic growth for North Carolina, especially for the region commonly

April 19, 2005
known as the Triad Region: Now, therefore, be it
Resolved, That the Senate—
(1) expresses support for the International Home Furnishings Market in High Point, North Carolina;
(2) commends those who organize and participate in the International Home Furnishings Market for their contributions to economic growth and vitality in North Carolina; and
(3) recognizes that the International Home Furnishings Market has a positive economic impact on North Carolina and is vital to a region and State adversely affected by a decline in traditional manufacturing.

AMENDMENTS SUBMITTED & PROPOSED

SA 538. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) 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 539. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) 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 540. Mr. CORNYN 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 541. Mr. KYL submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 542. Mr. KYL submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 543. Mr. REED (for himself and Mr. CHAFFEE) submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 544. Mr. REED (for himself and Mr. CHAFFEE) submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 545. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 550. Mr. VITTER 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 551. Mr. DEWINES submitted an amendment intended to be proposed to amendment SA 439 submitted by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 552. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 553. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 554. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 555. Mr. KYL submitted an amendment intended to be proposed to amendment SA 375 proposed by Ms. MIKULSKI (for herself, Mr. BURKETT, Mr. COLEMAN, Mr. WARNER, Mr. JEFFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. LEAHY, Mr. LATHERNBERG, Mr. FRINGOLD, Mr. DURbin, Mr. SMITH, Mr. CORNYN, Mr. STEVENS, Mr. DEWINES, Mr. COLEMAN, Mr. SNOWE, and Ms. COLLINS) to the bill H.R. 1268, supra.

SA 556. Mr. STEVENS 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 557. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 375 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 558. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 529 submitted by Mr. DOMENICI and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 559. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 437 submitted by Mr. ROCKEFELLER and intended to be proposed to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 560. Mr. COCHRAN (for Mr. SHELBY) submitted an amendment proposed to amendment SA 375 proposed by Mr. DURbin and Mr. OAHMA) proposed an amendment to the bill H.R. 1268.

SA 561. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, supra.

SA 562. Mr. COCHRAN (for Mr. REID) proposed an amendment to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

SA 538. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) 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.

On page 4, strike line 1 and all that follows through page 35, line 23.

SA 539. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) 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:

Beginning on page 58, strike line 10 and all that follows through page 65, line 21, and insert the following:

"(B) INFORMATION FROM STATES.—In complying with subparagraph (A), an employer applying for workers 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."
fence, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 13, strike line 4 and all that follows through page 35, line 23, and insert the following:

(a) APPLICANTS.—

(1) WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that 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.

(B) 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 may 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 application that contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

B. 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.

C. TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeitreresistant document of authorization to enter or reenter the United States that meets the requirements established by the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICANTS.—

(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 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) REPRESENTATIONS, ASSOCIATIONS, AND PERSONS DESIGNATED UNDER SUBPARAGRAPH (A) ARE REFERRED TO IN THIS ACT AS “QUALIFIED DESIGNATED ENTITIES”;

(C) PROCEDURE.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirements of subsection (a)(1) through government employment records or other evidence accepted 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.

(2) DOCUMENTATION OF WORK HISTORY.—

(I) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of days (as required under subsection (a)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employs an alien and cannot acquire the 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 show that the alien has performed the work described in subsection (a)(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 under paragraph (1)(A)(i)(II) if the Secretary has determined that such entity cannot, or will not, provide the employment authorization that has been granted to the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities 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).

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes 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; and

(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 section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(A) FEE SCHEDULE.—The Secretary shall provide a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsection (a)(1), 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 that charged by the Secretary; and in addition to, the fees authorized under subparagraph (A) are for services provided to applicants.

(C) DISPOSITION OF FEES.—

(I) IN GENERAL.—The general fund of the Treasury 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).

(2) 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 subsection (a).

(3) 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. 1116 and 1118(d)(1)) 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), 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 an alien who is otherwise eligible for adjustment of status under subsection (a)(1)(C), the following rules shall apply:

(A) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The Secretary may waive subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of section 212(a) if the alien demonstrates a history of employment in the United States evidencing self-support within the previous 5 years, or both.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—The Secretary may waive any other provision of such section 212(a) for the following reasons:

(A) AGRICULTURAL WORKER.—In the case of an alien who is otherwise eligible for adjustment of status under section 212(a)(1)(C), the Secretary may waive subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J) of section 212(a) if the alien demonstrates a history of employment in the United States evidencing self-support within the previous 5 years, or both.

(B) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(I) 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 otherwise eligible for adjustment of status under section 212(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 non-frivolous application for temporary resident status under subsection (a), the application 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 authorized 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 APPEAL 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 appeal 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 court finds that such record was established by fraud or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) INFORMATION 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) LIMITATIONS.—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 permanent basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for such fiscal years the sum of $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.

SA 542. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by 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. Bingaman, Mr. Bayh, Mr. Dorgan, Mr. Kerry, Mr. Conrad, Mr. Thomas, Mr. Stevens, Mr. DeWine, Mr. Coleman, Ms. Snowe, and Ms. Collins) 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. 1. ADJUSTMENT OF STATUS.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—The Secretary of Homeland Security (referred to in this section as the "Secretary") shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(i) applies for adjustment before April 1, 2007, and

(ii) is otherwise eligible to receive an immigrant visa and admissible to the United States for permanent residence, except that, in determining such admissibility, the standard 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.

(B) ELIGIBLE ALIENS.—To be eligible for adjustment of status under this section if the Secretary finds that the alien has been convicted of—

(i) any aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))); or

(ii) 2 or more crimes involving moral turpitude.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1) if otherwise qualified under that paragraph.

(B) SEPARATE MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A).

(C) EFFECT OF DECISION BY SECRETARY.—If the Secretary grants the application, the Secretary shall order the alien deported, removed, or to depart voluntarily from the United States, except in the case where the Secretary determines that such alien is a residual threat to public safety or order the alien deported, removed, or to depart voluntarily from the United States, except in the case where the Secretary determines that such alien is a residual threat to public safety.

(D) RELATIONSHIP OF APPLICATION TO ADMINISTRATIVE OR JUDICIAL REVIEW.—The Secretary shall not be required to order the alien deported, removed, or to depart voluntarily from the United States with respect to an order described in subparagraph (A).

(b) ELIGIBLE ALIENS FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided under subsection (a) shall apply to any alien—

(A) who is—

(i) a national of Liberia; and

(ii) has been continuously present in the United States from January 1, 2005, through the date of application under subsection (a); or

(B) who is the spouse, child, or unmarried son or daughter of an alien described in subparagraph (A).

(2) DETERMINATION OF CONTINUOUS PHYSICAL PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1), an alien shall not be required to have failed to maintain continuous physical presence by reasons of an absence, or absences, from the United States
for any period or periods amounting in the aggregate to not more than 180 days.

(c) Stay of Removal.—(1) In General.—The Secretary shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) Certain Proceedings.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order an alien to be removed from the United States if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status or an alien who has applied for adjustment of status under subsection (a), except where the Secretary has made a final determination to deny the application.

(3) Work Authorization.—(A) In General.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment.

(B) Pending Applications.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) Record of Permanent Residence.—(1) In General.—Upon approval of an alien’s application for adjustment of status under subsection (a), the Secretary shall establish a record of the alien’s admission for permanent record as of the date of the alien’s arrival in the United States.

(2) Availability of Administrative Review.—(A) The Secretary shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(B) aliens subject to removal proceedings under section 240 of such Act.

(3) Limitation on Judicial Review.—A determination by the Secretary as to whether the status of any alien should be adjusted under this section is final and shall not be subject to judicial review.

(g) No Offset in Number of Visas Available.—If an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) Application of Immigration and Nationality Act Provisions.—(1) Definitions.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act (8 U.S.C. 1101) shall apply to this section.

(2) Savings Provision.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

(3) Effect of Eligibility for Adjustment of Status.—Eligibility to be granted the status of having been lawfully admitted for permanent residence pursuant to this section is independent of, and not subject to, any other provisions of law for which the alien may otherwise be eligible.

SA 544. Mr. REED (for himself and Mr. CHAFFEE) submitted an amendment intended to be proposed to amendment SA 432 proposed by Mr. CHAMBLISS (for himself and Mr. KYL) 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, and to ensure the security 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. 3. ADJUSTMENT OF STATUS.—

(a) Adjustment of Status.—

(1) In General.—(A) Eligibility.—The Secretary of Homeland Security (referred to in this section as the “Secretary”) shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(i) applies for adjustment before April 1, 2007; and

(ii) is otherwise eligible to receive an immigrant visa and admissible to the United States for permanent residence, except that, in determining such admissibility, 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.

(B) Ineligible Aliens.—An alien shall not be eligible for adjustment of status under this section if the Secretary finds that the alien has been convicted of—

(i) any aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)); or

(ii) 2 or more crimes involving moral turpitude.

(2) Relationship of Application to Certain Orders.—(A) In General.—An alien present in the United States who has been ordered excluded, deported, removed, or to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1) if otherwise qualified under that paragraph.

(B) Separate Motion Not Required.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the order described in subparagraph (A).

(C) Effect of Decision by Secretary.—If the Secretary grants the application, the Secretary shall adjust the status of the alien described in paragraph (1) if otherwise qualified under that paragraph.

(D) Aliens Eligible for Adjustment of Status.—(1) In General.—The benefits provided under subsection (a) shall apply to any alien—

(A) who is—

(i) a national of Liberia; and

(ii) has been in the United States from January 1, 2005, through the date of application under subsection (a); or

(B) who is the spouse, child, or unmarried son or daughter of an alien described in subparagraph (A).

(2) Determination of Continuous Physical Presence.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1), an alien shall not be deemed to have failed to maintain continuous physical presence by reasons of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) Stay of Removal.—(1) In General.—The Secretary shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) Certain Proceedings.—Notwithstanding any provision in the Immigration and Nationality Act, the Secretary shall not order an alien to be removed from the United States if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has made a final determination to deny the application.

(3) Work Authorization.—(A) In General.—The Secretary may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment.

(B) Pending Applications.—If an application under subsection (a) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize such employment.

(d) Record of Permanent Residence.—(1) In General.—Upon approval of an alien’s application for adjustment of status under subsection (a), the Secretary shall establish a record of the alien’s arrival in the United States.

(2) Availability of Administrative Review.—The Secretary shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(h) Application of Immigration and Nationality Act Provisions.—(1) Definitions.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in this section.

(2) Savings Provision.—Nothing in this section shall be construed to repeal, amend, alter, modify, effect, or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.
(3) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—Eligibility to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude any alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

SA 545. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed to the bill H.R. 1298, 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 1, strike "At the appropriate place," and insert "On page 204, between lines 4 and 5."

On page 2, strike lines 1 through 11 and insert the following:

CHAPTER 5
DEPARTMENT OF DEFENSE
OPERATIONS AND MAINTENANCE

(a) 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, $31,000,000, 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).

(b) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $12,500,000, 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).

(c) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction at Lower Santa Ana River Reaches 1 and 2 of the Santa Ana River Project, Prado Dam of the Santa Ana River Project, San Timoteo of the Santa Ana River Project, Murrieta Creek, and Santa Paula Creek, $7,500,000, 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).

(d) The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Secretary of the Army to carry out the project at a total cost of $222,000,000.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall use any funds appropriated to the Secretary pursuant to this Act for the repair, restoration, and maintenance projects and facilities of the Corps of Engineers, including by dredging navigation channels, cleaning area streams, providing emergency streambank protection, restoring such public infrastructure as the Secretary determines to be necessary (including sewer and water facilities), conducting studies of the impacts of floods, and providing such flood relief as the Secretary determines to be appropriate: Provided, That of those funds, $52,000,000 shall be used by the Secretary for the Upper Peninsula, Michigan.

SA 546. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1298, 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:

Strike all after the first word and 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; and
"(B) NONDISPLACEMENT OF 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 who will be available at the time and place of need.

"(2) BENEFITS, WAGE, AND WORKING CONDITIONS.—
"(A) IN GENERAL.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (m) to all United States workers and to all other temporary workers in the same occupation at the place of employment.

"(B) 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 has been locked out in the course of a labor dispute.

"(3) 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.

"(4) 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 any accompanying documents as are necessary).

"(5) 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) DISQUALIFICATIONS.—The Secretary of Homeland Security may not find that the petition be filed more than 28 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 receipt of the petition.

(e) Roles of Agricultural Associations.—

(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—If an association 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.

(2) TREATMENT OF VIOLATIONS.—In the case of a joint employer association that receives a temporary alien agricultural labor certification from the Secretary of Labor or otherwise misrepresents the facts, the Secretary of Labor shall impose total civil money penalties with respect to a petition under subsection (a) in excess of $90,000.

(3) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under this section of an employer for each temporary alien agricultural worker certified, provided that the fee to an employer for each temporary alien agricultural labor certification received shall not exceed $1,000.

(ii) 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. The joint employer association shall not be charged a separate fee.

(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 members participated in, had knowledge of, or had reason to know of the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

(1) 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.

(2) If an association representing 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, and the fee to the association for each temporary alien agricultural worker employed by such member 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.

(3) INFLATION ADJUSTMENT.—In the case of an association filing a petition on behalf of a sole or joint employer, each dollar amount in subparagraph (B) shall be increased by—

(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.

(4) 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),

(i) 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; and

(ii) the Secretary of Homeland Security 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.

(5) 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),

(i) 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; and

(ii) the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

(f) EXPEDITED ADMINISTRATIVE APPEALS OR INTERPRETATIONS AND DETERMINATIONS.—

(1) ENSURANCE OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of the alien workers described in section 101(a)(15)(H)(ii)(A), or may be necessary to carry out this section and to provide notice for purposes of section 274A.

(2) TREATMENT OF STATE LAWS.—The provisions of subsections (a) and (c) of section 214 and the provisions of this section preclude any State or local law regulating admission of nonimmigrants.

(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. The joint employer association shall not be charged a separate fee.

(ii) JOINT EMPLOYER ASSOCIATION.—In the case of a joint employer association that receives a temporary alien agricultural labor certification, each employer 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 the 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.

(iii) THE RECIPIENT.—If an association or association member is required to pay a fee 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.

(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 members participated in, had knowledge of, or had reason to know of the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—

(1) 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.

(2) If an association representing 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, and the fee to the association for each temporary alien agricultural worker employed by such member 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.

(3) INFLATION ADJUSTMENT.—In the case of an association filing a petition on behalf of a sole or joint employer, each dollar amount in subparagraph (B) shall be increased by—

(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.

(4) 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),

(i) 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; and

(ii) the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers.

(5) 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),

(i) 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; and

(ii) the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers for a period of 5 years; and

(iii) for a third violation, the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers for a period of 5 years;

(6) FUNDING.—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),

(i) 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; and

(ii) the Secretary of Homeland Security may permanently disqualify the employer from the employment of H–2A workers for a period of 5 years;

(7) 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 as the alien worker employed by the employer during the period of employment on the employer's petition under subsection (a) or a willful failure to meet a condition of subsection (a) will be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(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 these and other benefits, wages, and other terms and conditions of employment shall be made in conformance with the governing principles that the Secretaries to their employers, the Secretary of Labor, and the employment opportunities afforded to workers by their employers, including those employment opportunities that require 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) The procedure described in subparagraph (B), an employer may rely on wage information, including a survey of the prevailing wages of workers in the occupation, in the area of the temporary labor camps or secure housing 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 survey of the prevailing wage, 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 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 option, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodations housing, or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodations 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 appropriate Federal or State agency to the Secretary of Labor.

(D) Workers engaged in the range production of livestock.—The Secretary of Labor shall establish regulations that require the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(E) Certificate of inspection.—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.

(1) In general.—The employer may provide a reasonable housing allowance in lieu of offering housing under subparagraph (A) if the worker provides the Secretary of Labor with evidence that the worker would have earned had the worker’s lawful admission into the United States further benefit the United States economy as a whole and should be encouraged.

(2) Required wages.

Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(3) Reporting requirement.—The employer shall furnish 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.

(4) Certificate of inspection.—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 in which the temporary labor camps or secure housing 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.

(5) 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, in assistance to any 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. 1907).

(6) Amount of allowance.

(A) Nonmetropolitan counties.—If the place of employment of the workers provided an allowance under this subparagraph is in 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.

(B) Metropolitan counties.—If the place of employment of the workers provided an allowance under this subparagraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the 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.

(C) Metropolitan counties.—If the place of employment of the workers provided an allowance under this subparagraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the 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.

(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 (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.

(E) Transportation between living quarters and worksite.—The employer shall provide transportation between the place of employment and 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 charge to the worker, and such transportation will be in accordance with applicable laws and regulations.

(5) Guarantor of employment.—The employer shall guarantee to offer the worker employment, if the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (3).

(6) Other fees.—The employer shall not be required to reimburse visa, passport, cultural fees or any other fees associated with the worker’s legal admission into the United States to perform employment that may be considered by the Secretary of Labor to be a job opportunity as provided in this paragraph.

(7) Reimbursement for transportation and subsistence.—Reimbursement to the worker for expenses of the cost of the worker’s transportation and subsistence associated with travel to the place of employment may not exceed the lesser of—

(i) the actual cost to the worker of the transportation and subsistence involved; or

(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

(8) Denial of Cheated—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).

(9) Workmen’s compensation.—If the work injury or disease occurs in the course of employment and is not a result of the worker’s willful misconduct, the employer shall be liable for workmen’s compensation charges and any other fees associated with the workman’s compensation claim.
"(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 given the 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 for 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) LIMITATION ON FORM OF DELIVERY.—"(A) the term 'file' means sending the petition by certified mail return receipt requested; 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.

(2) DISQUALIFICATIONS.—

(a) 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 as a nonimmigrant, including overstaying the period of authorized admission.

(b) WAIVERS.—

(1) IN GENERAL.—An alien outside the United States, and seeking admission under subsection (a), shall not be deemed inadmissible under such section by reason of paragraph (1) or section 212(a)(9)(B) if the violation occurred on or before April 1, 2005.

(2) LIMITATION.—In any case in which an alien is admitted to the United States upon having been convicted of a crime, the petition 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 the waiver shall be terminated.

(3) ABANDONMENT OF EMPLOYMENT.—(i) 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 subject to removal under section 237(a)(1)(C)(i).

(ii) 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.

(iii) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promotes United States upon termination of such employment.

(4) REPLACEMENT OF ALIEN.—

(i) IN GENERAL.—Upon presentation of the notice to the Secretary of Homeland Security that the alien has failed to provide the alien promptly departs the United States or the alien's having prematurely abandoned employment.

(ii) ABANDONMENT OF EMPLOYMENT.—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 given the 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 for 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.

(5) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary of Homeland Security may only commence upon the termination of employment.

(a) EXPEDITED ADJUDICATION.—An employer or any organization acting as an agent or joint employer for its members, that seeks to petition on behalf of an H-2A worker shall 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).

(b) IDENTIFICATION DOCUMENT.—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 data document that—

(A) The alien's entry into the United States; and

(B) serves as 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 a crime.

(3) EXTENSION OF STAY OF H-2A WORKERS IN THE UNITED STATES.—

(A) IN GENERAL.—An employer may seek up to 2 10-month extensions under this subsection.

(B) PETITION.—If an employer seeks to extend the stay of an H-2A worker, the employer shall submit to the Secretary of Homeland Security within 7 days of an H-2A worker's having prematurely abandoned employment.

(C) DETERMINATION.—The Secretary shall admit into the United States, an eligible alien (as defined in section 101(a)(15)(H)(ii)(a)) who abandons the employment.

(D) FUTURE ELIGIBILITY.—At the conclusion of the period of employment, the alien may apply for 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.

(E) DEFINITIONS.—For purposes of this section:

(i) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the workplace or physical location where the work of the H-2A worker is or will be performed. If such workplace or location falls within the Metropolitan Statistical Area, any place within such "area of employment" is deemed to be within the area of employment.

(ii) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 212(a)(6)(A)) with respect to such employment.

(iii) PLACE OF EMPLOYMENT.—The term 'place of employment' means the area within normal commuting distance of the workplace or physical location where the work of the H-2A worker is or will be performed. If such workplace or location falls within the Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

(iv) EMPLOYER.—The term 'employer' means any person who offers or continues to offer for a work day, when the worker has been given the 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 for 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.
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, wages, benefits, and working conditions. A job shall not be considered to be substantially equivalent of another job for which the H-2A worker or workers is or are sought. A job shall not be considered to be substantially equivalent of another job unless it involves essentially the same responsibilities, wages, benefits, and working conditions.


"(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 by a layoff or through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (or other than 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 with another employer under subsection (a)(7), with employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the worker was discharged, regardless of whether or not the worker accepts the offer.

"(B) an alien provided status under section 220; and

"(C) the Secretary may not waive paragraph (1)(C)—

"(i) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply; and

"(ii) the term ‘small employer’ means an employer employing fewer than 500 employees; and

"(3) Petitions.—

"(A) IN GENERAL.—An employer applying for blue card status under section 201(a)(6)(C) shall apply with respect to a job opportunity for which 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) $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

"(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.

"(VII) IDENTIFICATION 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.

"(VIII) ERRONEOUS 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.—

"(B) ALL-IN-ONE CARD.—The Secretary, in consultation 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 indicator card held by the alien; and

(III) serves as an entry and exit document to be used in conjunction with a proper birth certificate 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 Homeland Security and the Secretary of State.

(ii) Biometrics.—

(i) A petition 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 Department of Homeland Security, in consultation with the Department of Justice, shall establish requirements for the submission of a biometric identifier or any other information needed.

(iii) The Secretary may terminate blue card status granted to an alien if—

(A) the Secretary determines that, without the appropriate waiver, the granting of blue card status will result in fraud or misuse of any kind, or willful misrepresentation; (as defined in section 212(a)(6)(C)(i));

(B) the alien is convicted of a felony or a misdemeanor committed in the United States; or

(C) the alien is deportable or inadmissible under any other provision of this Act.

(iii) Period of Authority.—

(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 is an unprivileged or supervisory responsibility. The employer of such non-immigrant 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.

(E) 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.

(F) 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.

(G) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(H) 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

(B) Aliens Unlawfully Present.—An 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.

(I) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(J) 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

(B) 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.

(C) 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.

(D) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(E) 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.

(F) 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.

(D) 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

(B) Aliens Unlawfully Present.—An 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.

(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.

(E) 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.

(F) 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.

(G) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(H) 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

(B) Aliens Unlawfully Present.—An 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.

(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.

(E) 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.

(F) 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.

(G) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(E) 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.

(F) 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.

(G) Aliens in H-2A Status.—Any alien in lawful H-2A status as of April 1, 2005, shall be ineligible for blue card status.

(E) 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.

(F) 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.
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 547. Mr. COCHRAN (for Mr. BOND) 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:

Insert the following on page 203, after line 17:

"OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT SALARIES AND EXPENSES (INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Office of Federal Housing Enterprise Oversight" for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, $5,000,000 to remain available until expended to be derived from the Federal Housing Enterprises Oversight Fund: Provided, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0."

SA 548. 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:

At the appropriate place in the bill, insert the following:

"PROTECTION OF THE GALAPAGOS

Sec. 723. FUNDING.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long-term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected;

(4) The Government of Ecuador has reported that preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the United States to conduct aerial surveys from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing;

(5) Whereas, now therefore, be it Resolved, that—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service through a transparent process based on merit as previously agreed by the Government of Ecuador, donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues;

(B) offer assistance to implement the necessary policies and programs to ensure the long-term protection of the biodiversity of the Galapagos; and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

SA 549. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed 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:

SA 550. Mr. VITTER 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. 724. EFFECTIVE DATE.—The amendment made by this section shall apply to sales of agricultural commodities made on or after February 22, 2005.

SA 551. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 439 submitted by Mr. CRAIG (for himself and Mr. AKAKA) and intended to be proposed to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and
SA 552. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 475 submitted by Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) and intended to be proposed 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 matter proposed to be inserted—

(A) certify to the Office of Servicemembers’ Group Life Insurance the names and addresses of those members the Secretary of Defense determines to be eligible for retrospective traumatic injury benefits under such section 1980A; and

(B) forward to the Secretary of Veterans Affairs certification made under subparagraph (A), an amount of money equal to the amount the Secretary of Defense determines to be necessary to pay all costs related to claims for retroactive benefits under such section 1980A.

SA 553. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 376 submitted by Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) and intended to be proposed 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 2, strike lines 5 through 11, and insert the following:

DEPARTMENT OF DEFENSE—CIVIL OPERATIONS AND MAINTENANCE

(a) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 11 and insert the following:

DEPARTMENT OF DEFENSE—CIVIL CORPS OF ENGINEERS

(a) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for emergency construction, $100,000,000, 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).

(b) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for operations and maintenance, $163,000,000, 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).

(c) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for the Mississippi River and its tributaries, $15,000,000, 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).

(d) For an additional amount for the Secretary of the Army, acting through the Chief of Engineers, for the Upper Peninsula of Michigan, $163,000,000, 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 555. Mr. KYL submitted an amendment intended to be proposed to amendment SA 387 proposed by 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) 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 2, strike lines 5 through 11, and insert the following:

(9)(A) Subject to subparagraphs (B) and (C), an alien counted toward the numerical limitations of paragraph (1)(B) during any fiscal year of the period of 10 fiscal years prior to the fiscal year in which the petition is approved, who submitted a petition for a nonimmigrant worker described in subsection (d) of section 106 of the Immigration Act of 1990, or an individual petition for a nonimmigrant worker described in subsection (b) of section 106 of the Immigration Act of 1990, who is an individual on the petition is confirmed by—

(i) the Department of State; or
VerDate Mar 15 2010 20:53 Jan 30, 2014 Jkt 081600 PO 00000 Frm 00090 Fmt 0624 Sfmt 0634 E:\2005SENATE\S19AP5.REC S19AP5mmaher on DSKCGSP4G1 with SOCIALSECURITY

“(ii) if the alien is visa exempt, the Department of Homeland Security.”;

SA 556. Mr. STEVENS 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 lieu of the matter proposed to be inserted, insert the following:

(e) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(1) in paragraph (2), by adding at the end the following new subparagraph—

“(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election to be in effect under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(1), shall be provided to the spouse of the member.”; and

(2) in paragraph (3)—

(A) in the matter preceding clause (i), by striking “and (C)” and inserting “, (C), and (D)”;

(B) by adding at the end the following new subparagraph—

“(D) A member with a spouse may not elect not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(1), without the written consent of the spouse.”;

(f) REQUIREMENT REGARDING REDISIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection—

“(1) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.”;

SA 557. Ms. SOWEIE submitted an amendment intended to be proposed to amendment SA 550 submitted by Mr. DOMENICI and intended to be proposed 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; by the member under subsection (a) without providing written notice of such modification to the spouse.”;

In lieu of the matter proposed to be inserted, insert the following:

“(a) The Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration shall separately report their findings under paragraph (1), as prime contracts for all purposes;

(2) instituting adequate policies, regulations, procedures, and practices to ensure that prime contractors, which are other than small business concerns and which have entered into the management and operating contracts and other similar facilities management contracts with the Department of Energy, treat small businesses seeking to do business with the Department of Energy through such contracts according to the “federal norm”, as recognized by the Comptroller General of the United States;

(3) recognizing subcontracts awarded by the prime contractors as agents of the Department of Energy in accordance with the standards established in U.S. West Communications Services, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991) and related judicial precedents;

(5) ensuring that the Department of Energy’s prime contractors can simultaneously continue to receive, subcontract and facilities managed by prime contractors; and

(2) the agency relationship between the Department of Energy and some of its prime contractors on the ability of small businesses to compete for government business.

(c) The Comptroller General and the Chief Counsel for Advocacy of the Small Business Administration shall separately report their findings to—

(1) the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on Small Business and Entrepreneurship of the House of Representatives;

(2) the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Small Business of the House of Representatives;

(d) The Secretary of Energy may, until January 31, 2006—

(1) make changes to contracts, including the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns, consistent with those changes being studied under subsection (a); and

In lieu of the matter proposed to be inserted, insert the following:

“(a) Not later than January 31, 2006, the Comptroller General of the United States and the Chief Counsel for Advocacy of the Small Business Administration shall conduct a study, in consultation with the Administrator of the Small Business Administration and the Secretary of Energy, regarding the feasibility of—

(1) changing the management and operating contracts and other similar facilities management contracts between the Department of Energy and its prime contractors, which are other than small business concerns and which have entered into the management and operating contracts and other similar facilities management contracts with the Department of Energy, treat small businesses seeking to do business with the Department of Energy through such contracts according to the “federal norm”, as recognized by the Comptroller General of the United States;

(3) recognizing subcontracts awarded by the prime contractors as agents of the Department of Energy in accordance with the standards established in U.S. West Communications Services, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991) and related judicial precedents;

(2) instituting adequate policies, regulations, procedures, and practices to ensure that prime contractors, which are other than small business concerns and which have entered into the management and operating contracts and other similar facilities management contracts with the Department of Energy, treat small businesses seeking to do business with the Department of Energy through such prime contractors agents of the Department of Energy, according to the standards established in U.S. West Communications Services, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991) and related judicial precedents;

(2) implementing policies, regulations, procedures, and practices consistent with those being studied under subsection (a).
(1) the changes studied on accountability, integrity, competition, and sound management practices at the Department of Energy and its facilities managed by prime contractors; and
(2) the agency relationship between the Department of Energy and some of its prime contractors on the ability of small businesses to compete for government business.
(c) The Comptroller General and the Chief Counsel for Advocacy of the Small Business Administration shall separately report their findings.
(1) the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Committee on Small Business and Entrepreneurship of the Senate; and
(2) the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Small Business of the House of representatives.
(d) The Secretary of Energy may, until January 31, 2006—
(1) make changes to contracts, including the management and operating contracts and other similar facilities management contracts at the Department of Energy and its prime contractors, which are other than small business concerns, consistent with those changes being studied under subsections (a) and (b); and
(2) 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:

SA 550. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 437 submitted by Mr. ROCKEFELLER to be proposed 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:

SEC. 3. Proposed to be added—
(a)錒SENATE—The Senate makes the following findings:
(1) On September 11, 2001, terrorists hijacked and destroyed four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York, New York, and a third into the Pentagon outside Washington, District of Columbia.
(2) Many of the passengers and crew on the fourth aircraft prevented it from also being used as a weapon against the United States.
(3) On September 11, 2001, attacks stand as the deadliest terrorist attacks ever perpetrated against the United States.
(4) By targeting symbols of American strength and success, the attacks were clearly intended to assail the principles, values, and freedoms of the United States and the American people, to intimidate the Nation, and to reopen the national debate.
(5) On September 14, 2001, Congress, in Public Law 107–40, authorized the use of “all necessary and appropriate force” against those responsible for the attacks.
(6) The Armed Forces subsequently moved swiftly against Al Qaeda and the Taliban regime in Afghanistan, whom the President and Congress had identified as enemies of the United States.
(7) In doing so, brave servicemembers and intelligence officers risked their lives and friends in order to defend the Nation.
(8) More than three years later, many servicemembers and intelligence officers remain abroad.
(9) Terrorists continue to attack United States servicemembers and continue to plan attacks against the United States and its interests.
(10) Terrorists continue to target civilians and military personnel through such inhuman and cowardly methods as kidnappings and bombings.
(11) Intelligence information derived from the interrogation of captured terrorists is essential to the protection of servicemembers deployed around world, to the protection of the homeland, and to the protection of United States interests.
(12) It is the policy of the President and Congress that the interrogation of terrorists conform to the Constitution, laws, and treaty obligations of the United States.
(13) In those rare instances in which individuals have been alleged to have violated the Constitution, laws, or treaty obligations of the United States, United States intelligence agencies use measures of last resort only after an individual has had the opportunity to contest an accusation, to contest the legal basis of an accusation, and to contest the public disclosure of any information obtained from an individual.
(14) In the few cases in which officers of the United States intelligence community are determined to have actually violated the Constitution, laws, or treaty obligations of the United States, such officers have been, or should be, punished.
(15) The Select Committee on Intelligence of the Senate was established, among other things, to provide vigorous legislative oversight of the intelligence activities of the United States in order to assure that such activities conform to the Constitution, laws, and treaty obligations of the United States.
(16) The Select Committee on Intelligence of the Senate was deliberately structured with a unified staff under the joint supervision of the Chairman and the Vice Chairman, and directed by a single director in order to avoid, to the maximum extent possible, the politicization of oversight of the intelligence activities of the United States, because of its unique structure and rules, as currently written, the Select Committee is ideally suited to continue oversight of United States interrogation, detention, and rendition operations.
(17) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate have directed the staff of the Select Committee to continue to exercise the oversight authority of the Select Committee to ensure that intelligence activities of the United States relating to the detention, interrogation, and rendition of terrorists conform to the Constitution, laws, and treaty obligations of the United States.
(18) As part of its ongoing review, the staff of the Select Committee on Intelligence of the Senate have interviewed individuals and reviewed documents relating to the detention, interrogation, and rendition of terrorists, and have inspected United States detention and interrogation operations and facilities in Guantanamo Bay, Cuba.
(19) The Select Committee on Intelligence of the Senate continue to interview individuals, receive information, and review documents relating to the detention, interrogation, and rendition of terrorists.
(b)錒SENATE—It is the sense of the Senate—
(1) to recognize that terrorists continue to seek to attack the United States at home and the interests of the United States abroad;
(2) to stand with the people of the United States in great debt to the members of the Armed Forces and officers of the United States intelligence community serving at home and abroad;
(3) to remain resolved to pursue all those responsible for the terrorist attacks of September 11, 2001, and their sponsors, until those responsible are discovered and punished; and
(4) to reaffirm that Congress will—
(A) honor the memory of those who lost their lives as a result of the September 11, 2001 terrorist attacks;
(B) bravely defend the citizens of the United States in the face of all future challenges.

SA 560. Mr. COCHRAN (for Mr. SHELDEN, Mr. KENNEDY, Mr. DURBIN, 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 184, line 16, after "$11,935,000.", insert “for increased judicial security outside of courthouse facilities, including priority consideration of homeland security and terrorist threat, and 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:

In section 6017(b)(1)(A), insert “appurtenant to the land” after “water”.

SA 561. Mr. COCHRAN (for Mr. REID) 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:

In section 6017(c)(2), strike subparagraphs (A) and (B) and insert the following:
(A) acquired only from legitimate sources; and
(B) designed to maximize water conveyances to Walker Lake; and
NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations will hold a hearing entitled "The Container Security Initiative and the Customs-Trade Partnership Against Terrorism: Securing the Global Supply Chain or Trojan Horse?" In light of the September 11, 2001, terrorist attacks, concern has increased that terrorists could smuggle weapons of mass destruction in the approximately 9 million ocean going containers that arrive in the United States every year. As part of its overall response to the threat of terrorism, the Department of Homeland Security's Bureau of Customs and Border Protection (Customs) implemented the Container Security Initiative (CSI) to screen high-risk containers at sea ports overseas, thus employing screening tools before potentially dangerous cargoes reach our shores. Customs also implemented the Customs Trade Partnership Against Terrorism (C-TPAT) to improve the security of the global supply chain in partnership with the private sector.

Both CSI and C-TPAT face a number of compelling challenges that impact their ability to safeguard our Nation from terrorism. The Subcommittee's April 26 hearing will examine how Customs utilizes CSI and C-TPAT in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning CSI and C-TPAT from promising risk management concepts to effective and sustained enforcement operations. These important Customs initiatives required sustained Congressional oversight. As such, this will be the first of several hearings the Subcommittee intends to hold on the response of the Federal Government to terrorist threats.

The Subcommittee hearing is scheduled for Tuesday, April 26, 2005, at 9:30 a.m. in Room 562 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 19, 2005, at 9:30 a.m., in open session to consider the following nominations: (1) Honorable Gordon R. England to be Deputy Secretary of Defense; and (2) Admiral Michael G. Mullen, USN, for reappointment to the grade of Admiral and to be Chief of Naval Operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. 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 19, 2005, at 3 p.m., to conduct a hearing on "Proposals for Improving the Regulation of the Housing Government Sponsored Enterprises."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 19, at 10 a.m. in room SD-306.

The purpose of this hearing is to receive testimony concerning offshore hydrocarbon production and the future of alternate energy resources on the Outer Continental Shelf. Issues to be discussed include: 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. Participants in the hearing will also address ways that the Federal Government can facilitate increased exploration and production offshore while protecting the environment. New approaches to help diversify the offshore energy mix will also be discussed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, April 19, 2005, at 10 a.m., to consider an original bill entitled, "Highway Reauthorization and Excise Tax Simplification Act of 2005" and, S. 661, "the United States Tax Court Modernization Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Tuesday, April 19, 2005 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Tuesday, April 19, 2005, to mark up the nomination of Mr. Jonathan B. Perlin to be Under Secretary for Health, Department of Veterans' Affairs; and to hold a Committee hearing entitled "Back from the Battlefield, Part II: Seamless Transition to Civilian Life."

The meeting will take place in room 418 of the Russell Senate Office Building at 10:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 19, 2005 at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Competition Policy, and Consumer Rights be authorized to meet on Tuesday, April 19, 2005 to conduct a hearing on "SBC/ATT and Verizon/MCI Mergers: Remaking the Telecommunications Industry, Part II—Another View", at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List: Mr. Carl Grivner, CEO, XO Communications, Reston, VA.; Mr. Jeffrey Citron, CEO, Vonage, Edison, NJ.; Mr. Scott Cleland, CEO, Precursor Group, Washington, DC; and Mr. Gene Kimmelman, Director, Washington, DC Office, Consumers Union, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on April 19, 2005, at 3 p.m., in open session to receive testimony on United States Marine Corps Ground and Rotary Wing Program and Seabasing, in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on Tuesday, April 19 a 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 166, to amend the Oregon Resource Conservation Act of
Mr. STEVENS. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

ORDERS FOR APRIL 20, 2005

Mr. STEVENS. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, April 20. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and there then be 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 final 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; provided further that notwithstanding morning business and the adjournment of the Senate, all time be counted against cloture under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. 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 7:42 p.m., adjourned until Wednesday, April 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 2005:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALEX AZAR II, OF MARYLAND, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE CLAIRE A. ALLEN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

L.T. GEN. DAVID W. BARNO, 2000
CONGRATULATIONS TO THE BOROUGH OF WEST VIEW ON ITS CENTENNIAL ANNIVERSARY

HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Borough of West View as it celebrates its centennial Anniversary.

West View will turn 100 years old on March 20th, 2005. The community will celebrate during the week of July 10th with a parade, picnics and fireworks that have been planned by the Centennial Celebration Committee. The Committee has been working very hard planning the festivities for over a year, and the celebration promises to be a festive event.

I ask my colleagues in the United States House of Representatives to join me in honoring the rich history and tradition of the Borough of West View. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to congratulate West View on its 100th anniversary.

HONORING DAVID BENFER, FACHE, 2005 RECIPIENT OF THE TORCH OF LIBERTY AWARD

HON. ROSA L. DeLAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. DeLAURO. Mr. Speaker, today, in New Haven, Connecticut, friends, family and colleagues will gather to pay tribute to David Benfer, FACHE with the 2005 Greater New Haven Torch of Liberty Award.

Each year, the Connecticut Anti-Defamation League presents the prestigious Torch of Liberty Award to an outstanding leader in the community, recognizing their unique commitment and dedication. As President and Chief Executive Officer of the Saint Raphael Hospital System, David manages one of New Haven’s leading employers as well as one of the largest providers of healthcare in Connecticut. During his tenure of six years, Saint Raphael’s has furthered its reputation as a clinical pioneer in cardiac, cancer, orthopedic, neurosciences, and geriatric services. The outstanding success of Saint Raphael’s is a reflection of the deep commitment that David has demonstrated since his arrival just six years ago.

I have had the opportunity and honor to work with David on a number of projects. I am in awe of his unparalleled dedication. A trustee of the Catholic Health Association, an advocate organization that represents more than two thousand Catholic healthcare facilities nationwide, David recently asked me to get involved with a very special mission—the “Lend Your Voice” campaign, a national campaign to bring awareness to lawmakers of the seriousness of today’s healthcare crisis. As the administrator of a healthcare facility, David knows only too well the plight of uninsured Americans. At a recent event he said, “This is not only a moral responsibility, but it is an economic opportunity to improve health care and reduce costs in the long run by providing care at the appropriate time.” It is this leadership and vision that will continue to spark debate and, hopefully, allow for a time when every American is insured.

It is not only his professional contributions that have made David such a special member of our community. Arriving to New Haven only six years ago, David not only took on his responsibilities at Saint Raphael’s, but immediately became involved in a number of local service organizations. The New Haven Symphony Orchestra, Community Soup Kitchen and the International Festival of Arts and Ideas are just some of those who benefit from having David Benfer as a member of their Boards. It is not often that you find individuals who so quickly and willingly delve into their new communities. With his compassion, generosity, and kind heart, David represents all that a community leader should be.

I am honored to rise today and join his wife, Mary, his three children, family, friends, and colleagues to pay tribute to David Benfer, FACHE for his many invaluable contributions. I cannot think of a more appropriate honor than the Torch of Liberty Award to recognize the generosity and commitment David has shown to our community.

THE SREBRENICA MASSACRE OF 1995, HOUSE RESOLUTION 199

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CARDIN. Mr. Speaker, I am pleased to join my colleague and Chairman of the Helsinki Commission, Mr. Smith of New Jersey, in cosponsoring House Resolution 199, regarding the 1995 massacre at Srebrenica in eastern Bosnia-Herzegovina.

For us, the congressional debates regarding the nature of the Bosnian conflict and what the United States and the rest of the international community should do about it are increasingly part of history. Now focused on other challenges around the globe, it is easy to forget the prominence of not only Bosnia, but the Balkans as a whole, on our foreign policy agenda.

It would be a mistake, however, to ignore the reality of Srebrenica ten years later to those who were there and experienced the horror of having sons, husbands, fathers taken never to be seen again. Their loss is made greater by the failure to apprehend and transfer to The Hague for trial people like Ratko Mladic and Radovan Karadzic who were responsible for orchestrating and implementing the policies of ethnic cleansing.

Following the Srebrenica massacre, the United States ultimately did the right thing by taking the lead in stopping the bloodshed and in facilitating the negotiation of the Dayton Agreement, the tenth anniversary of which will likely be commemorated this November. Thanks in large measure to the persistence of the U.S. Congress and despite the resistance of some authorities in Belgrade and Banja Luka, cooperation with the International Criminal Tribunal for the former Yugoslavia remains a necessary precondition for improved bilateral ties and integration into NATO and the European Union. Meanwhile, the United States and many other countries have contributed significant resources, including money and personnel, to the region’s post-conflict recovery.

It is therefore appropriate that we, as the leaders of the Helsinki Commission, introduce and hopefully pass on the resolution on Srebrenica ten years later, not only to join with those who continue to mourn and seek closure, but also to understand why we have done what we have done since then, and, more importantly, to learn the lesson of failing to stand up to those in the world who are willing to slaughter thousands of innocent people.

The atrocities committed in and around Srebrenica in July 1995, after all, were allowed to happen in what the United Nations Security Council itself designated as a “safe area.” In confirming the indictments of Mladic and Karadzic, a judge from the international tribunal reviewed the evidence submitted by the prosecutor. His comments were included in the United Nations Security Council itself designated as a “safe area.” In confirming the indictments of Mladic and Karadzic, a judge from the international tribunal reviewed the evidence submitted by the prosecutor. His comments were included in the United Nations Security Council itself designated as a “safe area.”

In confirming the indictments of Mladic and Karadzic, a judge from the international tribunal reviewed the evidence submitted by the prosecutor. His comments were included in the United Nations Security Council itself designated as a “safe area.”

Regardless of one’s views of the Yugoslav conflicts—who started the conflicts, why, and what our response should have been—there is no denying that what happened to the people of Srebrenica was a crime for which there are no reasonable explanations, no mitigating circumstances, no question of what happened. As a result, it is inconceivable to me that anybody can defend Radovan Karadzic or Ratko Mladic, let alone protect them from arrest.

There should also be no mistake, Mr. Speaker, that Srebrenica was only the worst of many incidents which took place in Bosnia and Herzegovina from 1992 to 1995. Like the
shelling of Sarajevo and the camp prisoners at Omarska, the July 1995 events in Srebrenica were part of a larger campaign to destroy a multi-ethnic Bosnia and Herzegovina, which manifested itself in atrocities in towns and villages across the country. It does, indeed, melt the definition southerns.

I hope, Mr. Speaker, that the House will express its views regarding this massacre, which may fade in our memories but is all too recent and real to those who witnessed it and survived. Joining them in marking this event 10 years ago may help them to move forward, just as we want southeastern Europe as a whole to move forward. I call on my colleagues to support this resolution.


HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. NORTON. Mr. Speaker, today I am pleased to join my House colleague ROSA DE LAURO and Senator HILLARY CLINTON as original cosponsors of the Paycheck Fairness Act and Senator TOM HARKIN as an original cosponsor of the Fair Pay Act. The Equal Pay Act has been a highly successful civil rights statute, but it is creaky with age and to be useful, it must be amended to meet the changing economy in which it must now do its work. The Fair Pay Act also amends the EPA but it picks up where the EPA leaves off.

Huge changes in the economy and the workplace have occurred since the EPA was passed, and most important is the emergence of a highly educated workforce of women with even 75 percent of women with small children working for pay. However, women are vastly underused because of employer steering and because of deeply rooted wage stereotypes that result in pay according to gender and not according to the skills, efforts, responsibilities and working conditions in which it must now do its work. We introduce the Fair Pay Act because the pay problems of most women today stem mainly from this sex segregation in the jobs that women and men do. Two-thirds of white women, and three quarters of African American women work in just three areas: sales and clerical, service and factory jobs. Only a combination of more aggressive strategies can break through the ancient societal habits present throughout human time the world over as well as the employer steering of women into women’s jobs that is as old as paid employment itself.

The FPA recognizes that if men and women are doing comparable work, they should be paid a comparable wage. If a woman is an emergency services operator, a traditionally male-dominated profession, for example, she should be paid no less than a fire dispatcher, a male-dominated profession, simply because each of these jobs has been dominated by one sex. If a woman is a social worker, a traditionally female occupation, she should earn no less than a probation officer, a traditionally male job, simply because it is the gender associated with each of these jobs.

The FPA, like the EPA, will not tamper with the market system. As with the EPA, the burden will be on the plaintiff to prove discrimination. She must show that the reason for the disparity is sex or race discrimination, not legitimate market factors. Corrections to achieve comparable pay for men and women are not radical or unprecedented. State employees in almost half the states, state employees in almost half the states, both red and blue states, have already demonstrated that you can eliminate the part of the pay gap that is due to discrimination. Twenty states have adjusted wages for women, state employees, raising pay for teachers, nurses, clerical workers, librarians, and other female-dominated jobs paid less than men with comparable jobs. Minnesota, for example, implemented a pay equity plan when they found that similarly skilled female jobs paid 20% less than male jobs. There often will be some portion of the gap that is traceable to market conditions, but twenty states have shown that you can tackle the discrimination gap without interfering with the free market system. The states generally have closed the discrimination gap over a period of four or five years at a one-time cost no more than 3 to 4 percent of payroll.

In addition, routinely, many women workers achieve pay equity through collective bargaining. And countless employers on their own see women shifting out of vital female dominated occupations, and the resulting effects of the shortage of workers, see the unfairness to women, and raise women’s wages with pay equity adjustments. Unequal pay has been built into the way have been treated since Adam and Eve. To dissolve such deep seated and pervasive treatment, we must go to the source, the female occupations where pay now identifies with gender and always has.

The Paycheck Fairness Act is important simply to meet our obligation to keep existing legislation current. It simply updates the 42-year old Equal Pay Act. Recently, I thought we were seeing progress when the census reported that black college educated women actually earned more than white college-educated women, although the overall wage gap for black women, at 65 percent, remains considerably larger than the gap for white women.

No explanation was offered for the progress for black women but other data and information suggest that even when women seem to catch up it may not be what we had in mind. I suspect that African American women are represented disproportionately among the 50% of all multiple job holders who are women. I am certain that this progress for African American women also tells a tragic story. The decline in marriageable black men, eaten alive by ghetto life, also means that many college educated black women are likely to be single with no need for even the short time-out for child care white women often take that affects their wages.

The best case for a strong and updated EPA occurred in the Congress in 2003, when the women custodians in the House and Senate won an EPA case after showing that women workers were paid a dollar less for doing the same and similar work as men. Had they not been represented by their union they would have had an almost impossible task using the rules for bringing and sustaining an EPA case. EPA modernizes the EPA the first of the great civil rights statutes of the 1960s to bring it in line with later passed civil rights statutes. Because I enforced the EPA as chair of the Equal Employment Opportunity Commission, I know all too well the several ways that this historic legislation needs a 21st century make-over. We file these two bills today to say start with the Fair Pay Act or start with the Paycheck Fairness Act. Start where you like, but Congress should be ashamed to let another year go by while working families lose more than 2 billion annually—more than $4,000 per family—because even considering education, age, hours worked and location, women are paid less than they are worth. Let’s start this year to make pay worthy of the American women we have asked to go to work.

IN RECOGNITION OF ELAINE GROTMANN FOR HER 30 YEARS OF SERVICE TO THE CONTRA COSTA COUNTY DEPARTMENT OF EMPLOYMENT AND HUMAN SERVICES

HON. ELLEN O. TAUSCHER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor the career accomplishments of Elaine Grotmann for her 30 years of service to the Contra Costa County Department of Employment and Human Services.

Ms. Grotmann represents the highest standards of professionalism in her life work with the Department. She is respected and trusted by her colleagues for her sincerity, constancy, and the outstanding quality of her work. Her managers know that when Elaine takes on an assignment, the end product is going to be assured, timely, and a credit to the Department.

Over her career, Elaine’s work has benefited a wide range of the Department’s customers, including dependent children, refugees, foster children, and parents entering and reentering the job market after having received welfare. She has been an innovator and mainstay of programs for CalWORKs participants, creating and implementing services in child care, substance abuse, mental health, and learning disabilities that buoy employability. The training program she spearheaded for CalWORKs participants to become licensed child care providers and preschool teachers is an inspired, lasting design that continues to meet multiple, compatible needs of the participants.

Elaine’s respect for those who are served by the Department shows in her work on their behalf and confers respect on the Department. Her creativity, expertise, dedication, and ability—not to mention her affinity for good times and monthly trips to Disneyland—are going to be missed by everyone who has worked with Elaine and benefited from her good work.

I thank Elaine Grotmann for her career contributions to the Contra Costa County Department of Employment and Human Services, and I wish her a well-deserved retirement in the community she has done so much to improve.
20TH ANNIVERSARY OF CHRISTIAN RELIEF SERVICES CHARITIES

HON. JAMES P. MORAN
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise because today marks a very proud day for Virginia’s Eighth Congressional district. I am deeply honored to commemorate the 20th Anniversary of Christian Relief Services Charities, an international charitable organization located in the heart of my district, founded by a great Virginian and a man I’m proud to call my good friend, Eugene L. Krizek.

Throughout its 20-year history, Christian Relief has played a critical role in helping those in need both in the United States and around the world. From this humble objective, Christian Relief has worked to improve the lives of thousands worldwide. No example illustrates this more than the efforts of Christian Relief in Africa. In some of the most poverty-stricken regions on the continent, Christian Relief has offered vital development programs that address the long-term sustainability of communities for water, farming, housing, and clinics and hospitals. One particular program has educated African women, their children, and countless orphans.

Christian Relief’s school construction, vocational and literacy programs, and micro-credit and micro-enterprise opportunities have made it possible that new generations will possess the skills necessary for long-term community survival. As prosperous and fortunate as our great nation is, poverty and need still exist in American communities and neighborhoods. In our urban areas, the Appalachian region, American Indian reservations, and small towns throughout our country, Christian Relief has learned firsthand how to address the basic needs for food, medicine, and affordable housing of Americans.

This last point, affordable housing, is what Christian Relief has taken special interest in. Its multi-family housing programs confront many of the long-term needs of low-wage working families and individuals caught in the debilitating cycle of poverty. In over 2,800 living units spread across Arizona, Kansas, North Carolina and Virginia, Christian Relief is empowering residents to get actively involved in their own communities and also helping them develop local programs and services to meet specific needs. At the very doorstep of this nation’s Capitol, Fairfax County, Christian Relief has coordinated transitional housing for the homeless, working poor, and the disabled.

In particular, Pine Ridge Indian Reservation is the site of one of their most proud accomplishments. With a dire need for water and sustainable agriculture, Christian Relief provided Pine Ridge with over 300 drilled wells and installed water pumps that have provided a vital inventory of water for twenty years to families living on this remote reservation. The availability of water has allowed families to grow fresh food. Today, tribal members plant over 500 organic gardens each year.

In ending, Mr. Speaker, I would like to offer my most sincere gratitude to Christian Relief’s Founder and President, Eugene Krizek, its Board of Directors and dedicated professional staff. They have truly been at the service of humanity by providing hope in a sometimes unforgiving world. As I reflect on the past twenty years, I am reminded of a thought Albert Einstein offered about the nature of man. He believed that “the value of man resides in what he gives and not in what he is capable of receiving.” Using this as my guide, I realize how blessed we are to have Christian Relief, and I forever understand how immeasurable their value is to mankind.

HONORING SPECIALIST MANUEL LOPEZ III

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to Manuel Lopez III who gave his life in service to our country in Baghdad, Iraq.

Manny, a graduate of North Rockland High School, was a dedicated friend, son, husband, father, and citizen. Throughout his life Manny assumed extraordinary responsibility and always handled it masterfully. With the passing of his father and 4-year-old brother, Manny became the rock on which his mother would lean at an early age. While still a young man, Manny would later assume the role of father and husband, providing a home for wife, Kira, and their daughter, Isabella. It was for Kira and Isabella that Manny decided to enlist in the Army, hoping to provide them a better and safer future.

Manny was assigned to the 3rd Battalion, 7th Infantry Regiment, 3rd Infantry Division, based in Fort Stewart, Georgia. In January of 2005, Manny and his unit were deployed to Iraq as part of Operation Iraqi Freedom. On April 1, 2005, Manny was recognized for promotion to Specialist. Less than two weeks later, Manny died when the military vehicle in which he was traveling was struck by a rocket propelled grenade.

Only twenty years old, Manny was a true patriot who never stopped providing for his family or his country, and he paid the ultimate price for loyalty to both. Our nation is blessed to have dedicated, talented men and women like Manny Lopez fighting to protect us and others around the world.

Mr. Speaker, I ask my colleagues to join me in honoring Specialist Manuel Lopez III along with all of our nation’s other fallen heroes.

100TH ANNIVERSARY OF THE SOCIETY OF AUTOMOTIVE ENGINEERS INTERNATIONAL

HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Society of Automotive Engineers International on its 100th Anniversary, and recognize the exemplary service that the organization provides the 4th District of Pennsylvania.

The Society of Automotive Engineers International is a non-profit educational and scientific organization with nearly 50,000 members in over 97 countries that is dedicated to advancing mobility technology. Members of the Society of Automotive Engineers International have developed technical information on all forms of self-propelled vehicles including automobiles, aircraft, and rail systems.

I ask my colleagues in the United States House of Representatives to join me in honoring the Society of Automotive Engineers International. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the service of organizations like the Society of Automotive Engineers International which provide such valuable services.

HONORING NANCY BEALS FOR HER OUTSTANDING SERVICE TO THE COMMUNITY

HON. ROSA L. DELAURIO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. DELAURIO. Mr. Speaker, this past month family, friends, colleagues, and community leaders gathered to pay tribute to an outstanding woman—someone I consider myself fortunate to call my good friend, Nancy Beals. Nancy has spent a lifetime dedicated to improving our communities and enriching our State. Most individuals associate public service with holding an elected office, however, there are those who simply hold public office, and then there are those like Nancy Beals. An educator, volunteer mentor, advocate, and State representative—Nancy has done it all.

With the multitude of organizations and groups that she has been involved with over the years, it is difficult to put into words what a difference Nancy has made through all of her good work. Our communities would not be the same without the people like Nancy who so willingly dedicate their time and energies to make them a better place for our children, families, and businesses to live and grow. Whether as a trustee for Spring Glen Church, volunteer for Connecticut Food Bank and Habitat for Humanity, high school teacher, or board member for Partnerships for Adult Daycare and the Hamden Education Foundation—Nancy’s efforts on behalf of the community have touched the lives of thousands.

In addition to her myriad of community volunteer activities, Nancy also committed two decades as a local elected official. Serving for 9 years as a member of the Hamden Board of Education and 10 years as a State Representative in Connecticut’s General Assembly, she
used her background and experience to make a difference in the lives of the residents of Hamden as well as those throughout the State. With more than a decade of experience working with local and regional offices of the Parent Teacher Association (PTA) as well as several Connecticut Department of Education, Nancy focused much of her emphasis on improving the quality of education for Connecticut’s children. She served on the Assembly’s Task Force on Student Financial Aid, the Blue Ribbon Commission on the Future of the Library, and the State Advisory Council on Special Education. As a legislator, she was recognized for her efforts, which is reflected by the myriad of awards and commendations she received throughout her tenure. Her distinguished career came to an end when she retired in 2003, however, she left an indelible mark on the institution which will be remembered by her colleagues and will certainly serve as an inspiration for members to come.

For her many invaluable contributions to her community and to the State of Connecticut, I am proud to stand today to express my sincere thanks to her service to Nancy Beals. With her husband Richard, 3 children, and 9 grandchildren, she is certainly a busy woman, however, I have no doubt that though she no longer serves in public life, she will continue to work on behalf of her community and make a difference in the lives of others.

INTRODUCTION OF SSI MODERNIZATION ACT

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. CARDIN. Mr. Speaker, the Supplemental Security Income (SSI) program provides benefits to nearly 7 million elderly and disabled individuals who have few, if any, other resources. While it serves as the primary Federal program that assists low-income elderly and disabled Americans, many of the components of the program have not been updated in decades.

Since the inception of the program in 1972, the general income exclusion, which permits outside income to be added to the SSI benefit without penalty, has been set at $20. This income exclusion is generally applied to Social Security earnings, which are based on past employment. A second exclusion was also created to allow the first $65 in monthly earnings to be disregarded from SSI benefits, plus one-half of the remaining earnings. Neither of these provisions, which reward past and current work, have been increased in 33 years. As a result, these income exclusions have lost more than 75 percent of their real value over time. If they had kept pace with inflation over the last three decades, the general exclusion would be worth $90 a month, rather than $20; and the earnings exclusion would be worth $295 a month, rather than $65.

I am therefore pleased to introduce legislation today—along with Representative Jim McDermott, the Ranking Member of the Human Resources Subcommittee of the Ways and Means Committee, which has jurisdiction over the SSI program—to reduce the disincentives for work, savings and education in the SSI program. The SSI Modernization Act would reward work by increasing the general income exclusion to $40 a month and the earned income exclusion to $130 a month, then index the amounts to inflation in future years. The bill would also increase the SSI asset limit from $2,000 for an individual and $3,000 for a couple to $5,000 for an individual and $4,500 for a couple. Raising the asset limits would provide an incentive for individuals to save for their future. Finally, the bill would encourage disabled children to complete high school by delaying the period in which they are required to go through a reeducation process to evaluate whether they remain SSI eligible under the adult program requirements. Because some disabled children may not be able to complete their secondary education before the age of 18, the legislation would delay a recipient’s adult SSI redetermination if they are enrolled in secondary education and between the ages of 18 and 21.

Mr. Speaker, the provisions in the SSI program have not been updated in decades. Updating the program by rewarding work, savings and education will help improve the lives of millions of our most vulnerable seniors and disabled Americans who depend on this program to survive. As the Social Security Commissioner declared last spring before our Human Resources Subcommittee of the Ways and Means Committee, SSI recipients are the “poorest of the poor.” Efforts to improve the quality of life for these individuals will go a long way to ensuring that they have a basic level of support. I urge my colleagues to support this legislation.

RECOGNIZING THE GAY AND LESBIAN ACTIVISTS ALLIANCE OF WASHINGTON, DC 34TH ANNIVERSARY RECEPTION HONORING DISTINGUISHED SERVICE AWARD RECIPIENTS

HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. NORTON. Mr. Speaker, I have the distinct honor and pleasure of representing America’s oldest, continuously operational gay and lesbian rights organization: the Gay and Lesbian Activists Alliance of Washington, D.C. (GLAA). GLAA is a Washington, DC institution in the vanguard of the lesbian, gay, bisexual, and transgendered civil rights movement. For 34 years, GLAA has remained a tenacious, persistent, and most importantly, respected advocate for lesbians and gays.

Since 1971, GLAA has fought to improve District government services to the Lesbian, Gay, Bisexual and Transgendered (LGBT) communities, especially for those services provided by the Metropolitan Police Department, the Fire and Emergency Medical Services Department, the Department of Health, and the Office of Human Rights. In every election year GLAA educates District voters by rating candidates for Mayor, Council, and Board of Education. GLAA outspokenly advocates safe and affirming schools for gay and lesbian youth. GLAA vigorously lobbies this body to defend gay, bisexual, and transgendered rights.

On April 20, GLAA will hold its 34th Anniversary Reception honoring the recipients of its Distinguished Service Awards for 2005: recently retired Whitman-Walker Clinic executive director Cornelius Baker; the fundraising charity Brother, Help Thyself Inc.; D.C. Council Chairman Linda Cropp; Washington Post columnist Colbert I. King; and lesbian cultural trailblazer Jane Troxel.

GLAA is fighting to secure all the birthrights enjoyed by Americans for the LGBT residents of Washington, D.C. is more poignant than United States citizens living in our nation’s capital, who have served honorably in every American war, including the present war in Iraq, are taxed without representation. GLAA’s open and forthright advocacy reminds us that LGBT soldiers, who have sworn to protect our country with their lives, must serve in silence, without the open support of their chosen families and communities, neither asking nor telling.

RECOGNIZING ROBERT McCAFFREY
HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize Robert McCaffrey of Allison Park, PA for his distinguished service during World War II.

Recently, the National Personnel Record Center (NPRC) confirmed Mr. McCaffrey’s entitlement to ten medals related to his service. Several of these medals had been misplaced over the past 60 years. While a 1973 fire had destroyed his original service record, an alternate record recently confirmed Mr. McCaffrey’s entitlement to these medals. It is my honor to present Mr. McCaffrey with these decorations.

Mr. McCaffrey served in the United States Army from June 1943 until January 1946. During this time, Mr. McCaffrey received the following medals for his service: the Bronze Star Medal, the Purple Heart, the Good Conduct Medal, the Asiatic-Pacific Campaign Medal with one bronze service star, the World War II Victory Medal, the Combat Infantryman Badge 1st Award, the Philippine Liberation Ribbon, the Honorable Service Medal, the Button WWII, the Sharpshooter Badge with Rifle Bar, and the Marksmen Badge with Carbine Bar.

I ask my colleagues in the United States House of Representatives to join me in honoring Robert McCaffrey. He is an honor to represent Pennsylvania and a pleasure to salute citizens such as Robert who make the communities that they live in truly special.

IN RECOGNITION OF PAUL WARD FOR HIS 33 YEARS OF SERVICE TO THE CONTRA COSTA COUNTY DEPARTMENT OF EMPLOYMENT AND HUMAN SERVICES

HON. ELLEN O. TAUSCHER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor the career accomplishments of Paul Ward for his 33 years of service to the Contra
Costa County Department of Employment and Human Services.

For three decades, the Department has looked to Mr. Ward for the highest professional standards of analytical support, especially during periods of systems change.

Paul was a major force in developing the information systems necessary for the Department to succeed in its mission to move welfare participants into the workforce. His research picked an automated system was chosen by the Department to track the progress of participants toward independence, and he played a significant role in training Department employees to use it.

When impending welfare reform legislation prompted redesign of the benefits program, Paul became a leader for change inside and outside the Department, making presentations about the impacts of reform to fellow employees, other agencies, and local employers, and supporting critical community outreach of the Department Director.

Paul has taken on additional roles as resource to Department leadership inside and outside the organization, writing the Emergency Management Response Plan, staffing the Department Director in the Emergency Operating Center, and acting as Department liaison to other County departments, legislative advocacy associations, and university advanced degree programs.

Throughout his career, Paul has been respected and admired by those he has worked with in the Department and the community for his excellent analytical skills, voice of reason, collaborative cooperation, exemplary professional demeanor—and for his dry wit.

I thank Paul Ward for his contributions to the Contra Costa County Department of Employment and Human Services, and I wish him well in the community that he has served so well.

RECOGNIZING PETER F. BROWN

HON. JAMES P. MORAN
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise today to recognize an outstanding public servant, Peter F. Brown, as he completes more than 24 years of continuous service within the civilian leadership of the Department of Defense, DoD. He began his public service life as a naval architect at the Naval Sea Systems Command, NAVSEA, and is ending it as NAVSEA’s Executive Director. Throughout his career, he has been dedicated to serve America and our Navy and Marine Corps.

Mr. Brown joined NAVSEA in 1981 as Ship Project Manager and then Branch Head for Command and Amphibious ships. In 1987, he was appointed to the Senior Executive Service and as Deputy Program Manager for Amphibious and Combat Support Ships where he directed maintenance and modernization for over 175 surface ships and over 40 intermediate maintenance activities.

Over the next decade, Mr. Brown provided exceptional service to the Navy in a succession of key and demanding assignments as NAVSEA’s corporate planner, civilian manpower manager, Deputy Commander for Fleet Logistics Support, Chief Information Officer, and Executive Director of the Logistics, Maintenance and Industrial Operations Directorate. He was instrumental in supporting the command’s restructuring under the Defense Base Closure and Realignment Act and its headquarters move to the Washington Navy Yard.

In July 2003, Mr. Brown was appointed to the Senior Executive Service as the Command’s senior civilian executive, he quickly implemented strategic changes in the Navy’s largest systems command, comprised of 49,000 civilian and military personnel at 36 geographically dispersed activities with an annual budget of approximately $20 billion. A number of these changes are being widely adopted across the Department of the Navy and DoD.

Mr. Brown was the Program Team Chair and Product Integrator for a comprehensive DoD team that recommended the creation of a National Security Personnel System, NSPS, Program Executive Office to design and implement the new civilian human resources management system. Based on his team’s design, Secretary of Defense Donald Rumsfeld agreed to establish the NSPS Program Executive Office, with Mr. Brown assuming the role of interim Program Executive Officer. He was the driving force behind the successful launch of the NSPS program structure. Mr. Brown was instrumental in advancing the One Shipyard concept which revolutionized the nation’s entire ship industrial base to better meet the Navy’s Fleet Response Plan requirements in response to the challenge of the Global War on Terror and the dynamic world situation.

Mr. Brown’s visionary leadership included the identification, prioritization, and implementation of programs and processes and their rapid deployment. His active endorsement of the Occupational Safety and Health Administration’s Voluntary Protection Program, VPP, led to Portsmouth Naval Shipyard’s recent designation as a STAR VPP site, the highest ranking available and the second DoD site to achieve this status and the first Navy site to do so. Mr. Brown is recognized throughout the shipbuilding industry as a leader who can be trusted and is the Navy’s sole representative on the Executive Committee of the National Shipbuilding Research Program Advanced Shipbuilding Enterprise.

Mr. Brown has been an exceptional innovator of strategies to solve the most difficult challenges in personnel downsizing, work force renewal, and to reduce costs in acquisition and support of ships, submarines and systems. He provided executive leadership for several initiatives aimed at improving the efficiency and effectiveness of the Navy’s five systems commands under the auspices of the Navy’s Virtual System Command. He led the virtualization of the host software, and data migration to common processes, streamlining responsibilities and systems and instituting the adoption of best practices in many key areas. Additionally, these efforts have created a single Fleet distance support solution that provides a conduit for virtually all of the technical and logistics support. These efforts collectively represent over $6 billion in savings across the Navy over the Future Years Defense Program.

Within NAVSEA, Mr. Brown established a formal control structure for over 166 technical authority areas that are key to the engineering performance and safety of ships, systems, and the sailors who operate them. Nationally recognized individuals known for their professional expertise were assigned as the technical authorities in each area. Not only do these individuals represent the ultimate technical authority for their field of expertise, they are responsible to oversee the technical health of the Government, academia, and private sector network that supports that expertise. This approach has been recognized across the Navy for its clarity, effectiveness, and efficiency and has been adopted by other Navy systems commands.

Mr. Brown’s visionary approach to challenges allows for the transformation from a “business as usual” mentality into actions that permit innovative improvements in the way the Government and its private industry partners achieve best value products and services. It is, therefore, a pleasure to recognize Mr. Peter F. Brown for his many contributions in a life devoted to our nation’s security as he leaves the Department of the Navy. I know my colleagues join me in wishing he and his wife Terri much happiness and fair winds and following seas as they begin a new chapter in their lives.

HONORING SISTER CANDACE INTROCASO

HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. HART of Pennsylvania. Mr. Speaker, I would like to take this opportunity to honor Sister Candace Introcaso, on being named the seventh President of LaRoche College in Pittsburgh, Pennsylvania.

Sister Introcaso became the President of LaRoche College on July 1, 2004. A member of the Board of Trustees since 2001, Sister Candace takes over an institution, founded by women that believed religion held a very important place in the landscape of higher education. Sister Introcaso brings a very diverse background to her leadership role, having received a B.A. in psychology from Shippensburg University, an M.A. in sociology from Fordham University and Ph.D. in Higher Education from the Claremont Graduate University.

Her experience includes a prior position with LaRoche College from 1986–1991, where she was the Director of Grants and an Assistant to the Vice President for Student Affairs. From 1997 to 1999, Sister Candace served as the Assistant Vice President for Academic Affairs at Heritage College on the Yakima Indian Reservation in Toppenish Washington before moving on to serve as the Vice President for Academic Affairs at Barry University in Miami Shores, Florida. Sister Introcaso will be honored with an Installation Ceremony on Friday, April 8, at 2:30 p.m. on the East Campus of LaRoche College.

I ask my colleagues in the United States House of Representatives to join me in honoring Sister Candace Introcaso. It is a honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as Sister Introcaso, who make the communities that they live in truly special.
HONORING THE 2005 WOMEN OF VISION AWARD RECIPIENTS: ROSYLN MILSTEIN MEYER AND GLORIA STEINEM

HON. ROSA L. DELAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join Women’s Health Research at Yale as they honor two outstanding women with their 2005 Women of Vision Award: Gloria Steinem and, my good friend, Roslyn Milstein Meyer. This recognition is a reflection of the contributions these women have made, locally and across the globe.

Author, advocate, and leader, Gloria Steinem has brought issues of concern to women to the forefront of national and international discussion. Her leadership and vision helped to create an atmosphere in which women became empowered and ensured that their voice was heard. Ms. Steinem is an individual who sparked debate and stimulated discussion. Whether it was through her books or her unparalleled activism—and whether or not you agreed with her views—women were encouraged and motivated to act. Hers is a legacy that will continue to inspire generations to come.

While there are many people with good hearts, there are few who combine that heart with a deep commitment to philanthropy and action. Roz Meyer is one of those special people. She captures the best spirit of what it is to be a community leader. She is the co-founder of Leadership, Education, and Athletics in Partnership (LEAP), a nationally recognized program supporting hundreds of young people throughout Connecticut, as well as New Haven’s International Festival of Arts and Ideas, an annual celebration of art, culture, and tradition. The success of both of these programs would not have been possible without the support and commitment that Roz provided. Through her advocacy, leadership, and awe-inspiring generosity, she has left an indelible mark on our community.

Whether its impact is on the world or a community, women across the globe touch the lives of people every day. I am honored to stand today and join Women's Health Research at Yale in recognizing the outstanding achievements of Gloria Steinem and Roslyn Milstein Meyer. Through their many contributions, they are a reflection of the very spirit of the Women of Vision Award. I am delighted to extend my sincere congratulations and very best wishes to them on this very special occasion.

TRIBUTE TO DR. JEANNE PETREK

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to pay tribute to an exceptional woman—a devoted wife, physician, and researcher—Dr. Jeanne Petrek.

Dr. Petrek, born in Youngstown, Ohio, pioneered the field of surgical oncology during a time when very few women practiced such a demanding specialty. She received her medical degree from Chase Western Reserve in Cleveland and served on the faculty of Emory University School of Medicine in Georgia before joining the staff at Memorial Sloan-Kettering Center in 1977. Col. Stockwell was a champion and hero. He helped make it possible for our nation’s flag to continue flying in all of its glory, long may she wave.

After World War II, he left military service for the private sector in Chicago, Illinois where he then answered our nation’s call again by reentering the service and fighting in the Korean War. This time, he stayed in uniform and was one of our nation’s first military advisors to serve in Vietnam.

Col. Stockwell was an honorable man who served our nation faithfully in an honorable fashion. He retired from the Army in 1966 as a Lieutenant Colonel after 25 years of active military service, and traded one form of honorable service for another when he headed up the Junior Reserve Officer Training Corps in Long Beach, California. There, for over 15 years, he instilled in thousands of students the values that have made our nation great, values such as selfless service, loyalty, and honor. He influenced generations of young people who, without his mentoring, may not have gone to college and on to successful careers in military service and professional civic life. They never knew how high they could reach until he called upon them to rise, and their statures touched the skies.

One of the high schools where he taught in Long Beach—Polytechnic High School—established an annual leadership award in his name to the most-deserving member of Junior ROTC there who exemplifies good leadership, military bearing and the ability to teach subordinates basic military knowledge. The recipient receives a gold medal whose name is inscribed on a perpetual plaque displayed in the hall. The scholarship is the Stockwell Family Leadership Scholarship and will be awarded to the most deserving graduate of Arizona Project Challenge, which graduating classes each year. The Arizona National Guard runs Project Challenge as an alternative to high school for at-risk youth between the ages of 14 and 18. Most of the program’s graduates receive their GED certificates and go on to institutions of higher learning, and this scholarship will help some deserving young people achieve their goals. Thanks to him, the statures of even more young people will reach to touch the skies. The first award of the scholarship will be made in June 2005 in his memory, and the memories of his son Robert and his brother Warren. They, too, served our nation faithfully in uniform during times of war and peace. Their legacy of service lives.

Col. Stockwell’s health began to decline about 15 years ago. It seemed the worse his health became, the taller he stood in stature. Poor leg circulation and breathing difficulties
forced him to limit his walks from the front door to his flagpole in the front yard to continue raising the Stars and Stripes at 8 a.m., and then lower the flag at 5 p.m., a daily vigil he maintained faithfully year after year until a few weeks ago when he no longer had the strength. At that point, his family installed a lighting system at his home, where his wife continues to live, so Colonel Stockwell’s flag may continue to fly.

Mr. Speaker, Colonel Stockwell is being laid to rest today at Arlington National Cemetery at his home, where his wife continues to live, so Colonel Stockwell’s flag may continue to fly. Mr. Speaker, Colonel Stockwell was being laid to rest today at Arlington National Cemetery with full military honors. I ask that these comments be submitted into the CONGRESSIONAL RECORD so that they, like the flag that continues to fly in front of Colonel Stockwell’s yard, may remain a permanent tribute to this great man.

CONGRATULATIONS TO WILLIAM L. MCCARRIER

HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate William L. McCarron on his election to the Supreme Council of the Scottish Rite of Northern Masonic Jurisdiction of the United States of America. William has been active in the Masonic community for almost 40 years, and has served as the commander-in-chief of the Scottish Rite Bodies of the Valley New Castle, and as the vice president of the New Castle Benefit Fund. William has also served as a county commissioner for Butler County, and is a trustee of the Butler County Community College. I ask my colleagues in the United States House of Representatives to join me in honoring William McCarri. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizen such as William who make the communities that they live in truly special.

DRUG ENFORCEMENT AGENCY MUST RESTORE BALANCE BETWEEN PRESCRIPTION DRUG ABUSE AND PROVIDING PATIENT ACCESS TO NECESSARY MEDICATIONS

HON. CHARLIE NORWOOD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. NORWOOD. Mr. Speaker, I think there is little doubt that our law enforcement agencies should conduct themselves, in fulfilling their founding purpose, in a manner that is consistent with their mission of serving the American people. In this light, I am submitting for the record an article by Radley Balko, a policy analyst with the Cato Institute, entitled “Bush Should Feel Doctors’ Pain”. The article suggests that the need to protect patients, while attempting to prevent diversion and misuse of prescription drugs is arguably out of balance.

There is no doubt that prescription drug abuse, particularly the abuse of prescription pain medications, is a serious public health problem. I have been one of the most vocal advocates on the necessity of this body to address the abuse of prescription medication by patients, crack down on the practice of “doctor shopping” and prosecute those medical professionals and health care professionals who abuse them. But, it must also recognize that over 30 million Americans suffer chronic pain and need access to proper pain management by legitimate medical practitioners if they are to lead normal and productive lives.

However, in its seemingly single-minded pursuit of “bad doctors,” the DEA appears to be showing its lack of proper understanding, inability, or unwillingness, to strike a proper balance between these two public policy goals. I am worried that this failure is scaring responsible doctors away from prescribing legitimate pain medications, causing patients and those who love and care for them untold harm and unnecessary distress. Congressmen Whitfield, Pallone, Stockland, and I have introduced H.R. 1132, a bill that would assure the States to establish a controlled substance monitoring program. These Prescription Monitoring Programs would assist physicians, pharmacists, and other healthcare professionals by providing them with prescribing information that would help them detect abuse and diversion tactics and prevent “doctor shopping”. This legislation also would allow law enforcement to review this prescribing data, but only where they certify that the requested information is related to an individual investigation involving the unlawful diversion or misuse of schedule II, III, or IV substances, and that such information will further the purpose of their investigation.

It appeared that the DEA realized it should not, indeed could not, dictate proper medical practice in the prescribing of pain medications. Last August, after working with a panel of distinguished physicians specializing in pain management, the DEA published guidelines for physicians who treat pain with opioids. These guidelines were designed to assure legitimate medical practitioners that they would not face prosecution simply because they prescribed such medications or treated a large number of patients in pain. Given the disturbing trend of doctors shying away from prescribing necessary medication due in large part to the issues discussed, the DEA should not act in a way that would allow practitioners’ access to needed pain management medications.

Within weeks, the DEA abruptly withdrew these guidelines without explanation in a transparent attempt to avoid jeopardizing a pending high profile prosecution. Strong objections came from the medical community and from 30 state Attorneys General. I am also including a copy of their letter sent to the DEA in which they raise their objections.

However, the DEA has not relented in its pursuit of doctors it considers to be practicing bad medicine in a field of practice that is still evolving and requires a certain latitude for the practice of sound medical judgment. In effect, the DEA is doing the very thing it should not do, determine what is acceptable medical practice.

The chilling effect the DEA’s actions are having on physicians engaged in the legitimate practice of medicine is undeniable. Effective pain management has become all too often a result of obtaining because many doctors are afraid to prescribe adequate levels of opioids for fear of investigation and prosecution. This is simply unacceptable, as a member of the healthcare community for over thirty years and a patient who has known the need for proper pain management.

Yes, the DEA should continue to work with the appropriate state and local authorities to pursue those who abuse the trust that was placed in them when they obtained a medical license. Yes, we should focus on those patients who seek to circumvent and abuse the system to abuse prescription medications. But the DEA must lead the charge to restore the balance between these different but certainly not mutually exclusive public health goals. By assuring legitimate medical practitioners that they will not be investigated or prosecuted simply because they prescribe a certain kind of medication or have a successful outcome, better serve the American people, particularly those many millions who are needlessly suffering in pain.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

KAREN P. TANDY
Administrator, Drug Enforcement Administration, Alexandria, VA.

DEAR MS. TANDY: We, the undersigned Attorneys General, write to express our concerns about recent DEA actions which respect to prescription pain medication policy and to request a joint meeting with you. Having consulted with your Agency about our respective views, we were surprised to learn that DEA has apparently shifted its policy regarding the balancing of legitimate prescription of pain medication with enforcement to prevent diversion, without consulting those of us with similar responsibilities in the states. We are concerned that state and federal policies are diverging with respect to the relative emphasis on ensuring the availability of prescription pain medications to those who need them.

Subsequent to DEA endorsement of the 2001 Joint Consensus Statement supporting balance between the treatment of pain and enforcement against diversion and abuse of prescription pain medications, the National Association of Attorneys General (NAAG) in 2003 adopted a Resolution Calling for a Balanced Approach to Promoting Pain Relief and Preventing Abuse of Pain Medications (copy attached). Both these documents reflected a consensus among law enforcement agencies, health care practitioners, and patients that eliminating prescription pain abuse is an important societal goal that can and should be pursued without hindering proper patient care.

The Frequently Asked Questions and Answers for Health Care Professionals and Law Enforcement Personnel issued in 2004 appeared to be consistent with these principles, so we were surprised when they were withdrawn. The Interim Policy Statement, “Dispensing of Controlled Substances for the Treatment of Pain” which was published in the Federal Register on November 16, 2004 emphasizes enforcement, and seems likely to have a chilling effect on physicians engaged in the legitimate practice of medicine. As Attorneys General have removed barriers to quality care for citizens of our states at the end of life, we have learned that
adequate pain management is often difficult to obtain because many physicians fear investigations and enforcement actions if they prescribe adequate levels of opioids or have many patients on prescription for pain medications. We are working to address these concerns while ensuring that individual patients who do divert or abuse drugs are prosecuted to the fullest extent. But we believe that the balance is very important to our citizens, who deserve the best pain relief available to alleviate suffering, particularly at the end of life.

We understand that DEA issued a “Solicitation for Comments on Dispensing of Controlled Substances for the Treatment of Pain” in the Federal Register yesterday. We would like to discuss these issues with you to better understand DEA’s position with respect to the practice of medicine for those who need prescription pain medication. We hope that together we can find ways to prevent abuse and diversion without infringing on the legitimate practice of medicine or exerting on the will of doctors to treat patients who are in pain. And we hope that state and federal policies will be complementary rather than divergent.

Lynne Ross, Executive Director of NAAG, will contact you soon to arrange a meeting at a mutually agreeable time, hopefully in March when Attorneys General will be in Washington, DC to attend the March 14-16 NAAG Spring Meeting. We hope to meet with you soon.

Thankyou.

Sincerely,

Recently, the president and publisher, Michael G. Kane, wrote in a message to readers: “Through 150 years, 16 publishers, seven name changes, five building locations, and more than 45,000 editions, we have been the eyes and ears of mid-Michigan. And a remarkable community it is: capital of the great state of Michigan, home of one of the nation’s great universities, and birthplace of an automobile industry.”

Clearly, the newspaper leadership and its staff understand that in one of the most diverse regions of the state, the Lansing State Journal has to fulfill its responsibility as community mirror, historian, and monitor. From birth to death, the Lansing State Journal chronicles the important milestones in the lives of the people who live and work in mid-Michigan, captures in print and picture the ebb and flow of life in each community throughout the region, and serves as a key element in the mid-Michigan marketplace.

From the reception desk to the newsroom and advertising department, to the press room and the circulation office and distribution team, the people who work in a newspaper everyday of every year are truly part of the heartbeat of the mid-Michigan region.

Mr. Speaker, I ask my colleagues to join me in honoring the Lansing State Journal and its employees and retirees for all they have accomplished. May we extend best wishes for the future, and express our respect and appreciation for their important role in the community.

RECOGNIZING A STATEMENT BY RABBI ISRAEL ZOBERMAN, SPIRITUAL LEADER OF CONGREGATION BETH CHAVERIM IN VIRGINIA BEACH

HON. J. RANDY FORBES OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. FORBES. Mr. Speaker, I rise today in recognition of a statement by Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, Virginia in recognition of the hope of peace created by Beth Chaverim in Virginia Beach, in recognition of a statement by Rabbi Israel that fears and vulnerabilities simmer just below the surface, mindful of the global rise in anti-Semitism and the apprehension concerning ultimate Arab intentions. In our discussions with Knesset members of both the coalition and the opposition, we were exposed to Israel’s vibrant democracy that hopefully will spread throughout the Middle East.

Equally significant was to watch Secretary of State Condoleezza Rice’s motorcade speed through Israel’s Capital. Her poignant presence so closely following her installation in office was a clear signal to all concerned that the United States led by President George W. Bush placed the settlement of the Israeli-Palestinian conflict high on its agenda of concerns, to enabling both sides to reach that elusive peace which involves the traumatic disengagement from Gaza and parts of the West Bank, along with further trying concessions for the two long-embroiled peoples. Chairman Abu Mazen’s immediate and fateful challenge is to prevail upon militant Palestinians to end the terrorism of suicide bombings and rocket launchings that might derail progress as in the past. However, Jewish extremists pose danger of their own, recalling Prime Minister Rabin’s 1995 assassination.

I was glued to Israeli T.V. as the Sharon Summit with Prime Minister Sharon, Chairman Abu Mazen, President Mubarak and King Abdullah gathered with evident determination to begin the vicious cycle of death and despair. Both Sharon and Abu Mazen vowed to immediately cease all military operations with Egypt and Jordan committing to returning their ambassadors to Israel. When Sharon heartfeedly spoke these unforgettable words, “to kindle for all the region’s nations a first light of hope.” I whispered my own “Amen.”

Our warm meeting in Tel-Aviv with American Ambassador Daniel Kurtzer was an illuminating experience, as we were briefed by a Middle East expert on the arena’s shifting dynamics. He expressed cautious optimism following Arafat’s departure, the one who was the stoiling obstacle at Camp David 2000 and beyond. We toured various segments of the “security barrier,” and in Jerusalem we were guided by Colonel (Res.) Danny Tarea, the project’s head administrator for the Ministry of Defense who has been responsible for its complex erection in a city with multi raocious and ethnic layers that he successfully dialogued with to avoid hard feelings. The cement part of the fence, only 4.5 percent of it, is designed to be dismantled when called upon. Its purpose of blocking terrorist infiltrations has proved itself over ninety percent.

We held a memorial service in the Nahalal cemetery of the Jezreel valley for Israel’s first astronaut, Ilan Ramon, who perished along with his heroic fellow crew members of the Columbia shuttle two years ago. Ilan, who participated as a pilot in 1981 in destroy- ing Iraq’s Baghdad radar and whose mother survived Auschwitz, will remain an enduring symbol of courage and creativity. Our group of rabbis also paid respect at the Abukasis home in the town of Herriot, who lost their eighteen-year-old daughter Ella, an exemplary young woman, in a rocket attack on January 15 from neighboring Gaza. The heroic high school senior was killed while she saved the life of her ten year old brother Tamir, protecting him with her own body.

Let the day come soon when the children of both parties to the tragic conflict will grow their dreams. After all, it is their birthright and the best guaranty for lasting peace.

IN RECOGNITION OF GERTRUDE BAGNALL

HON. MELISSA A. HART
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to recognize Gertrude Bagnall for her courageous and selfless actions, which resulted in the rescue of a human life.

Mrs. Bagnall, with little regard to her own safety, raced into a church building in Farrell, Pennsylvania that had, moments earlier, exploded. Gertrude rushed to the aid of Pastor Barbara McCrae and parishioner Bruce Davis. She was able to assist Pastor Barbara McCrae from the building and into a waiting ambulance. Gertrude uncovered Mr. Davis from debris that had fallen on him in the explosion, allowing him to be rescued by emergency workers that arrived on the scene. Gertrude’s bravery will be recognized at the “Celebrate a Hero” banquet to be held in her honor on Saturday, March 19, 2005 at the Hermitage Fire Hall.

I ask my colleagues in the United States House of Representatives to join me in honoring Gertrude Bagnall. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as Gertrude that display such selflessness and courage.

HONORING HENRIETTA VILLAESCUSA

HON. GRACE F. NAPOLITANO
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and pay tribute to Henrietta Villaescusa, who passed away at the age of 84 on March 6, 2005, in Tucson, Arizona. As we join her family and friends who mourn her loss, I would like to acknowledge Henrietta for her remarkable contributions to public health, the nursing profession and the Hispanic community.

Henrietta Villaescusa was a pioneering Latina at a time when Hispanic women were not widely represented in the nursing field. Henrietta served as the only Hispanic public health supervising nurse for the Los Angeles City Health Department. She later broke boundaries in the federal government as the first Hispanic nurse to serve as Health Administrator for the Health Services Administration and the first Mexican-American Chief Nurse Consultant in the Office of Maternal and Child Health. Henrietta eventually rose to the position of chief nurse of the Division of Maternal and Child Health, where she was responsible for all nursing aspects of the nation’s maternal and children’s health programs.

Henrietta’s work was not limited to America. She helped improve health care in Latin America through her work at the Alliance for Progress, the President’s Office of Community Development and the Agency for International Development.

Nor was her work limited by her retirement. After officially retiring in 1985, Henrietta was asked by the Surgeon General to help develop
the Hispanic Health Initiative. President Reagan’s Health and Human Services Secretary appointed her to the Task Force on Minority Health to advocate for Hispanic health needs. Henrietta also edited the first Hispanic Health Bibliography, which highlighted Hispanic health needs and underscored the need to prepare more Hispanic health professionals to conduct such research.

Henrietta gave so much of herself to assist others. She mentored Hispanic leaders and shared her vision with the federal government, local community health programs in Los Angeles, and organizations including the National Association of Hispanic Nurses, the National Coalition of Hispanic Health and Human Services Organization and the Mexican American National Women’s Association.

Her accomplishments as a Latina, nurse and activist for others less fortunate are truly extraordinary. She will be greatly missed by those whose lives she touched.

TRIBUTE TO MARY ANN RABIN

HON. STEPHANIE TUBBS JONES
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor a very special constituent, Mary Ann Rabin, on the occasion of her receipt of the Ohio Women’s Bar Association’s Justice Alice Robie Resnick Award of Distinction. This award is the OWBA’s highest award for professional excellence and is bestowed annually on a deserving attorney who exhibits leadership in the areas of advancing the status and interests of women and in improving the legal profession in the State of Ohio. It gives me great pleasure to wish Ms. Rabin my warmest congratulations on this truly special occasion.

Mary Ann (Mickey) Rabin is a nationally recognized bankruptcy practitioner and a founding partner of Rabin & Rabin Co., L.P.A. She practices law with two of her three children. Ms. Rabin received her J.D. degree from Case Western Reserve University School of Law in 1978 and her A.B. degree in music in 1956 from Washington University in St. Louis, Missouri.

Ms. Rabin is a Fellow of the American College of Bankruptcy, a member of the Bankruptcy Trustees for the United States Bankruptcy Court for the Northern District of Ohio since 1983, a life member of the Eighth Judicial Conference, and a founding member of the Ohio Women’s Bar Association.

Ms. Rabin is a dedicated community activist devoting hours of pro bono work to local organizations including serving on the board of the Cleveland Legal Aid Society.

On April 29, 2005, OWBA President Halle M. Hebert will be presenting Ms. Rabin with the Ohio Women’s Bar Association’s Justice Alice Robie Resnick Award of Distinction at its Annual Meeting in Cleveland, Ohio.

It gives me great pleasure to rise today, Mr. Speaker, and join the OWBA in congratulating Mary Ann Rabin and wishing her continued success.
founded upon the belief in "the laws of Nature and Nature's God." I climbed the long steps, walked past the huge columns, stepped out of the sunlight and into the presence of a sculpture introduced my name, the Court guard who replied, "I'm Moses and I'll escort you to your seat." "Moses? Moses?" I responded. The guard smiled and nodded his head. "If it be a better way, he could lead me to the Ten Commandments cases," I said.

Moses led me to the chambers, through the huge oak double doors, engraved with the Ten Commandments, and to my seat in the chambers. The courtroom was soon filled to the point of the Court Marshal's announcement, "The Honorable Associate Justices of the Supreme Court of the United States, Oyez! Oyez! Oyez! . . . God save the United States and this Honorable Court!" The justices filed in and were seated. On the frieze above them and to their left, sculpted in stone, stands Moses with the Ten Commandments.

It is a rare privilege to be in the presence of the most powerful and unaccountable shapers of American society that our nation has ever seen. The oral arguments before the Supreme Court in the two cases before it will likely determine if there will be changes in whether and under what circumstances religious displays can be placed on public property. As I listened to the questions and remarks from the justices, I considered the implicit question that could become an Constitutional right to religious freedom and the Constitution itself. A growing uneasiness slowly turned into a sinking feeling in my stomach.

Before I get to the cases at hand, I remind you that the Constitution is written to protect the rights of the minority against the will of the majority. In the time of the Court against the will of the majority. Without the Constitution and the Bill of Rights, the will of the majority would be imposed on the minority. Put simply, a pure democracy would give the will of the majority would be imposed on the minority. Put simply, a pure democracy would move us further and further from original intention. The wet paint of case law precedent is no different. Judges have warped our sacred constitution with their original intent.

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I have learned that it is a rare privilege to be in the presence of the most powerful and unaccountable shapers of American society that our nation has ever seen. The oral arguments before the Supreme Court in the two cases before it will likely determine if there will be changes in whether and under what circumstances religious displays can be placed on public property. As I listened to the questions and remarks from the justices, I considered the implicit question that could become an Constitutional right to religious freedom and the Constitution itself. A growing uneasiness slowly turned into a sinking feeling in my stomach.

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tribute to Jay cutler

hon. Patrick j. kennedy

of Rhode island

in the house of representatives

Tuesday, April 19, 2005

Mr. Kennedy of Rhode Island. Mr. Speaker, I rise today to pay tribute to the life of Jay B. Cutler—a dedicated advocate of mental health parity, a talented attorney, and a dear friend. Jay passed away on 874, 2005 at the age of 74. He was a passionate and skillful advocate of the causes he believed in and was recognized as such by all his peers.

A native of New York, Jay graduated from New York University, as a business major, and Brooklyn Law School. He served in the Korean War in Army Intelligence before moving to Washington, DC, where he dedicated his life to improving the treatment for persons suffering from mental illness and substance abuse. He began his career in Public Service Television production and for the former U.S. Senator Jacob Javits as Staff Director of the Senate's Human Resources Committee. He was the lead Senate staff member in the drafting, introduction and passage of the landmark Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) that established the National Institute on Alcohol Abuse and Alcoholism.

Jay joined the American Psychiatric Association in 1976, to begin a 25-year career as Director of Government Relations. He helped broaden Medicaid coverage for the treatment of mental illness and blocked government efforts to steer mentally ill patients towards cheaper and less effective medications. Recognized for his remarkable dedication to the education about and destigmatization of mental illness not only to legislators, but also to the public, Jay's involvement helped to change the view of such issues in the public. Thanks to people like him, the Nation has made a remarkable transition from the long-held and destructive view that mental illness and substance abuse are character flaws. He advocated the idea that they are diseases which can and should receive the best treatment that medical sciences can provide. His commitment has been at the core of a profound shift in public awareness and understanding of these disorders.

As an APA lobbyist, Jay had direct impact on virtually every major bill on health policy and mental illness and substance abuse treatment legislation over more than 25 years. The expansion of the Community Mental Health Centers Program, the exemption of psychiatric hospitals and long-term care from Medicare prospective payment methodology, ensuring their fiscal viability for nearly 20 years, and the increased funding for veterans', children's and Indian mental health services are among the numerous legislative achievements Jay carried on in his career. His role in passing mental health legislation, his steadfast devotion to the best interests of the patient, his advocacy for the rights of individuals with mental illness, and his tireless efforts to protect patient confidentiality and broadening coverage for psychiatric and substance abuse treatment make him a role model for others to emulate.

Jay was not only a committed and effective advocate; he was an excellent teacher. It was my great privilege to work closely with Jay on numerous occasions and in his immense knowledge. He taught me a great deal about mental health policy and the history of behavioral health. And I can assure you that every lesson from Jay Cutler, just like every encounter of any kind with Jay Cutler, was a joy.

While being always at the forefront of efforts to eliminate discrimination against mental illness, Jay remained a loving husband and father. He understood the importance of being a doting father and grandfather, as well as a devoted husband. As in his professional activity, Jay Cutler was respected and appreciated by his friends and relatives.

I ask my colleagues to join me in expressing condolences to Jay's wife, Randy, his two daughters, Holli S. Cutler and Perri E. Cutler, and his granddaughter, Makayla Lipsetts. We are deeply saddened by his death, and we are warmed by the memory of his remarkable life.

IN HONOR AND RECOGNITION OF ROBERT H. MCKINNEY

hon. julia carson

of indiana

in the house of representatives

Tuesday, April 19, 2005

Ms. Carson. Mr. Speaker, on the occasion of his retirement from the position of Chairman of First Indiana Corporation, I rise today to commend Robert H. McKinney for his distinguished career of service to our country and his and my hometown community.

First Indiana Corporation is a publicly traded holding company that operates the First Indiana Bank, the largest homegrown bank in Indianapolis. It was established in 1915 by Mr. McKinney's father, the highly respected E. Kirk McKinney.

It is entirely and delightfully fitting that tribute be paid to Robert McKinney and his illustrious career as a devoted national and local public servant who is truly an inspiring community leader.

His achievements are breathtaking. A graduate of the United States Naval Academy, the Naval Justice School, and the Indiana University School of Law, Mr. McKinney served in the Pacific during World War II and the Korean War. He has received Honorary Doctorates of Law from Marian College and Butler University. He has served as a member of the Indiana University Board of Trustees.

Bob McKinney has served as chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the
The Role of Libraries in Health Communication

HON. JOHN J.H. "JOE" SCHWARZ
of Michigan
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to call attention to the role of libraries in addressing the health information needs of the American people. In doing so, I also recognize the U.S. National Commission on Libraries and Information Science, NCLIS, for its efforts in encouraging libraries to play a key role in educating American citizens about healthy lifestyles.

The Commission is a permanent, independent agency of the United States Government, established with Public Law 91–345, 20 U.S.C. 150 et seq. signed July 20, 1970. The law includes the following statement of policy:

Sec. 2. The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

The Commission's purpose is stated in the legislation: "The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 2." As its first function, the Commission is charged to advise the President and the Congress on the implementation of national policy with respect to library and information science.

One of the Commission's current goals is to strengthen the relevance of the libraries and information science in the lives of the American people. Toward this goal, the Commission has undertaken an initiative designed to recognize libraries as 'communities' knowledge source for consumer health information.

The overarching objective of this initiative, referred to as the NCLIS Libraries and Health Communication Initiative, is to identify best practices in libraries that excel in providing health information, and to publish these best practices for the benefit of all library managers and information providers. As part of this effort, and to meet its statutory responsibility, the Commission will then provide policy advice to the President and the Congress recommending how national policy in this area can be implemented.

In order to identify best practices, the Commission has developed an awards program that recognizes libraries that have successfully created or participated in exemplary programs in the delivery of consumer health information. On May 2, at a reception at the National Agriculturallicians Day, the Commission will announce a major award. This award, the 2006 NCLIS Health Award for Libraries, is designed to mobilize the resources of libraries to help citizens learn how to live healthy lifestyles and to provide citizens with consumer health information, particularly when they require health information in a critical or unusual situation. The purpose of the award is to encourage libraries to put forward their best efforts in matching the Nation's critical need for authoritative, unbiased, and readily available consumer health information with a practical means of responding to that need. Libraries in every community are already providing citizens with a wide variety of consumer-focused information. The provision of consumer health information falls naturally in libraries' information-delivery function.

This Commission initiative is of particular benefit to the American people, for it provides citizens with quality consumer health information through their libraries, trusted sources of information that are already acknowledged and respected for the quality of the information they provide. We already know that health information that results in lifestyle improvements lowers costs for health care. Additionally, the initiative will benefit the entire library and information science profession and related professions, businesses, and industries, as it provides documented best practices that can be adapted and replicated and, when required, customized for particular local needs. As stated above, a specific product of the initiative will be the development of a recommended statement of policy on the subject of libraries as health communication centers for American citizens, to be delivered to the President and the Congress as required by Pub. L. 91–345.
U.N. SECRETARY-GENERAL KOFT ANNAN SEEKS MAJOR CHANGES IN HUMAN RIGHTS COMMISSION

TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. LANTOS. Mr. Speaker, I rise today to call my colleagues’ attention to a courageous speech given on April 7 by my good friend, United Nations Secretary-General Kofi Annan, to Delegates attending this year’s Universal Periodic Review at the United Nations Human Rights Commission in Geneva. In this speech the Secretary-General outlined his plans to shut down the hopelessly discredited forum and replace it with a smaller Human Rights Council that is explicitly intended to exclude human rights violators such as the Sudan, Zimbabwe, and Cuba.

During the past few years, many of us in the House of Representatives have been outraged that the designated global forum for identifying and censuring the world’s most egregious violators of human rights had become a haven for the world’s worst tyrants. Thus it is refreshing to see that Secretary-General Annan has recognized that its overhaul must be a integral piece of U.N. structural reform. In his speech to the Commission in Geneva last week, the Secretary-General said to the U.N. to do more to promote and protect fundamental rights and freedoms by stating that “unless we re-make our human rights machinery, we may be unable to renew public confidence in the United Nations itself.” He also asserted that “At the same time, the Commission’s ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission’s declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough.”

As Members of Congress, we have an opportunity to demonstrate U.S. leadership by helping the U.N. address today’s most critical human rights challenges. I commend the Secretary-General for his proposals to create a more efficient and accountable human rights body and urge you to join me in supporting his efforts. In the coming weeks and months I will be working with my colleagues in the International Relations Committee, with the Secretary-General and with the Administration to ensure that the Secretary-General’s bold plans to restructure the U.N.’s human rights mechanisms are implemented in a way that supports his goals.

Mr. Speaker, I ask that the entire text of the Secretary-General’s historic address be placed in the RECORD.

THE SECRETARY-GENERAL’S ADDRESS TO THE COMMISSION ON HUMAN RIGHTS, GENEVA, APRIL 7, 2005

Thank you, Mr. Chairman. Like you I am deeply conscious of what we have all lost with the passing of Pope John Paul II. His was an irreplaceable voice speaking out for peace, for religious freedom, and for mutual respect and understanding between people of different faiths. Kofi, may your soul rest in peace. I hope all of us who are concerned with human rights can pledge ourselves to preserve those aspects of his legacy.

Excellencies, Dignitaries and Gentlemen, One year ago today, we stood together in this Commission in silent tribute to the memory of the victims of genocide in Rwanda. We recalled again our collective failure to protect hundreds of thousands of defenseless people. And we resolved to act more decisively to ensure that such a denigration of human dignity is never allowed to happen again.

Today we have reached another moment when we must prove our commitment. First, because the world is suffering in Darfur. Valiant efforts have been made to deliver humanitarian assistance. I am glad that the Security Council, by imposing sanctions on individuals who committed violations of international humanitarian law, and to ask the International Criminal Court to investigate, is taking a key role in lifting the veil of impunity and holding to account those accused of war crimes and crimes against humanity. And I think it is refreshing to see that Secretary-General Annan has recognized that its overhaul must be a integral piece of U.N. structural reform. In his speech to the Commission in Geneva last week, the Secretary-General said to the U.N. to do more to promote and protect fundamental rights and freedoms by stating that “unless we re-make our human rights machinery, we may be unable to renew public confidence in the United Nations itself.” He also asserted that “At the same time, the Commission’s ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission’s declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough.”

As Members of Congress, we have an opportunity to demonstrate U.S. leadership by helping the U.N. address today’s most critical human rights challenges. I commend the Secretary-General for his proposals to create a more efficient and accountable human rights body and urge you to join me in supporting his efforts. In the coming weeks and months I will be working with my colleagues in the International Relations Committee, with the Secretary-General and with the Administration to ensure that the Secretary-General’s bold plans to restructure the U.N.’s human rights mechanisms are implemented in a way that supports his goals.

Mr. Speaker, I ask that the entire text of the Secretary-General’s historic address be placed in the RECORD.

Thank you, Mr. Chairman. Like you I am deeply conscious of what we have all lost with the passing of Pope John Paul II. His was an irreplaceable voice speaking out for peace, for religious freedom, and for mutual respect and understanding between people of different faiths. Kofi, may your soul rest in peace. I hope all of us who are concerned with human rights can pledge ourselves to preserve those aspects of his legacy.

Excellencies, Dignitaries and Gentlemen, One year ago today, we stood together in this Commission in silent tribute to the memory of the victims of genocide in Rwanda. We recalled again our collective failure to protect hundreds of thousands of defenseless people. And we resolved to act more decisively to ensure that such a denigration of human dignity is never allowed to happen again.

Today we have reached another moment when we must prove our commitment. First, because the world is suffering in Darfur. Valiant efforts have been made to deliver humanitarian assistance. I am glad that the Security Council, by imposing sanctions on individuals who committed violations of international humanitarian law, and to ask the International Criminal Court to investigate, is taking a key role in lifting the veil of impunity and holding to account those accused of war crimes and crimes against humanity. And I think it is refreshing to see that Secretary-General Annan has recognized that its overhaul must be a integral piece of U.N. structural reform. In his speech to the Commission in Geneva last week, the Secretary-General said to the U.N. to do more to promote and protect fundamental rights and freedoms by stating that “unless we re-make our human rights machinery, we may be unable to renew public confidence in the United Nations itself.” He also asserted that “At the same time, the Commission’s ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission’s declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough.”

As Members of Congress, we have an opportunity to demonstrate U.S. leadership by helping the U.N. address today’s most critical human rights challenges. I commend the Secretary-General for his proposals to create a more efficient and accountable human rights body and urge you to join me in supporting his efforts. In the coming weeks and months I will be working with my colleagues in the International Relations Committee, with the Secretary-General and with the Administration to ensure that the Secretary-General’s bold plans to restructure the U.N.’s human rights mechanisms are implemented in a way that supports his goals.

Mr. Speaker, I ask that the entire text of the Secretary-General’s historic address be placed in the RECORD.
Under such a system, every Member State could come up for review on a periodic basis. Any such rotation should not, however, impede the Council from dealing with massive and gross violations that might occur. Indeed, the Council will have to be able to bring urgent crises to the attention of the world community.

Therefore, the Human Rights Council must be a society of the committed. It must be more accountable and more representative. That is why I have suggested that members be elected by a two-thirds majority of the General Assembly, and that those elected should have a solid record of commitment to the highest human rights standards. Being elected by a majority of the General Assembly should help make members more accountable, and the body as a whole more representative.

A Council will not overcome all the tensions that accompany our handling of human rights. A degree of tension is inherent in the issues. But the Council would allow for a more comprehensive and objective approach. And ultimately it would produce more effective assistance and protections, and that is the yardstick by which we should be measured. I therefore hope that the United States will reach early agreement in principle to establish a Human Rights Council. They can then turn to the details such as its size, composition and mandate; its relationship with other UN bodies; and how to retain the best of the existing mechanisms, such as the special rapporteurs and the close ties with NGOs.

Consultations with the High Commissioner would naturally be a very central part of this process, and she stands ready to assist. Let us all do our part to make this happen, and show that the United Nations takes the cause of human rights as seriously as it does those of security and development.

Ladies and gentlemen, human rights are the core of the United Nations’ identity. Men and women everywhere expect us to uphold universal ideals. They need us to be their ally and protector. They want to believe we can help unmask bigotry and defend the rights of the weak and voiceless.

For too long now, we have indulged this view of our own capabilities. But the gap between what we seem to promise, and what we actually deliver, has grown. The answer is not to draw back from an ambitious human rights agenda; it is to make the improvements that will enable our machinery to live up to the world’s expectations.

Our constituents will not understand or accept any excuse for us to fail to act. So let us show them that we understand what is at stake.

Thank you very much.

HONORING THE CONTRIBUTIONS OF MOON HERNANDEZ, BOWIE ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize Moon Hernandez, Bowie Elementary School Teacher of the Year.

Mrs. Hernandez is currently a second grade teacher at Bowie Elementary. She received her teaching degree from Texas A&M University, married to her high school sweetheart, and raised five children in her family to graduate college.

Mrs. Hernandez has served on the District Education Improvement Committee for the last four years and is presently the Literacy Link Lead teacher for the second grade teachers at Bowie. She has served as the second grade team leader and as a technology presenter at the TCEA 23rd Annual Convention.

Mrs. Hernandez’s goal in teaching is to help children become independent thinkers and I am honored to have her here today.

REGARDING H. CON. RES. 34
HON. JIM MARSHALL
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. MARSHALL. Mr. Speaker, on April 5, 2005, we short-circuited the debate and used a suspension motion to honor Yogi Bhanja. It has since come to my attention that Mr. Bhanjan is a controversial figure. Had I known of the controversy surrounding him, I would not have voted in favor of this suspension of the House’s normal legislative process.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005
SPEECH OF
HON. CORRINE BROWN
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Ms. CORRINE BROWN of Florida. Mr. Speaker, I am reminded of the words of the first President of the United States, George Washington, whose words are worth repeating at this time: “The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the veterans of earlier wars were treated and appreciated by their country.”

Republican priorities: Many of them talk about protecting veterans and making sure veterans have the support they need when returning from protecting this country’s freedom in Iraq and Afghanistan. Her yesterday, the House passed H.R. 8, to make permanent the repeal of the estate tax. This bill will cost the American taxpayer $290 billion over the next ten years. The cost over the first ten years could go to $1 trillion.

That is a huge cost to all of us. The bill gives a tax break to the wealthiest 3½ of 1 percent of estates, while imposing a new capital gains tax on most, including those of small business owners and farmers.

At the same time, the Republicans passed a budget that called for $86 billion in cuts to the VA over the next five years. Clearly, the Republicans are attempting to balance the budget on the backs of veterans’ health care, and on the backs of the widows and orphans of those who paid the ultimate sacrifice for our country’s freedom.

Today, this same house will vote on bankruptcy legislation that does nothing to protect our veterans.

Thank you very much.

HONORING THE CONTRIBUTIONS OF MEGAN NEBGEN, GOODNIGHT JUNIOR HIGH TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to congratulate Megan Nebgen, Goodnight Junior High Teacher of the Year.

Mrs. Nebgen is the coach of the Dancin’ Stars Team at Goodnight, a position she has held for the past two years. She is well-qualified for the position, having received a Bachelor of Science in Dance from Texas State University. She has brought energy and initiative to Goodnight, establishing the first Contest Team at the school.

Megan Nebgen believes that dance can be an excellent venue for growth for girls, teaching them to express themselves through movement and building their self-esteem. Her girls have won many awards in competition, but Mrs. Nebgen believes that the confidence and pride that the girls get from the dance program is their most important reward.

She believes that dance can help students in the rest of their lives, citing the fact that most of her students improve their marks in school when they are enrolled.

Mrs. Nebgen also believes that team competitive dance can teach an important civic virtue: teamwork. Mrs. Nebgen herself is a team player within her school, taking time from her schedule to participate in both the Campus Management Team and the Veteran’s Day Committee.

Mrs. Nebgen has made an important contribution to the health and happiness of the
A TRIBUTE TO WILLIE GARY
HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. TOWNS. Mr. Speaker, I rise today to honor Willie E. Gary for his work as an outstanding trial attorney, philanthropist and community activist.

Attorney Willie E. Gary is living the American Dream. Once a migrant worker, now a multi-millionaire attorney, Gary earned his reputation as “The Giant Killer” by representing little-known clients against major corporations. Gary’s amazing success has earned him national recognition as a leading trial attorney. Along the way he has handled some of the largest jury awards and settlements in U.S. history, winning more than 150 cases valued in excess of $1 million each.

His remarkable legal career and tireless work on behalf of his clients has been well documented in “60 Minutes”, “CBS Evening News”, “The Oprah Winfrey Show”, ABC’s “World News Tonight” with Peter Jennings, and CBS’s “The Early Show” with Bryant Gumbel. In May 2002, he was featured in Ebony magazine as one of the “100 Most Influential Black Americans”, Forbes Magazine has listed him as one of the “Top 50 attorneys in the U.S.”


But Willie Gary’s triumphant rise to the top is no overnight success story. His vast appeal stems from his desire to be the best and a passionate work ethic he learned through his humble beginnings. One of 11 children of Turner and Mary Gary, Willie Gary was born July 12, 1947 in Eastman, Georgia, and raised in migrant farming communities in Florida, Georgia and the Carolinas.

His unwavering desire to earn a college education ultimately led him to Shaw University, where the all-state high school football player would earn an athletic scholarship after being told there was no room for him on the team. Gary went on to become the co-captain of Shaw’s football team during the 1969, 1970 and 1971 seasons.

Earning a Bachelor’s degree in Business Administration, Gary went on to North Carolina Central University in Durham, North Carolina where he earned a Juris Doctorate in 1974. Upon earning his law degree, Gary returned to Florida where his childhood sweetheart, Gloria soon became his wife.

Gary was admitted to the Florida Bar and opened his hometown’s first African-American law firm with Gloria’s assistance. His practice has since grown into the thriving national partnership known as Gary, Williams, Parenti, Finney, McNamus, Watson & Sperando, P.L., consisting of 37 attorneys, a team of paralegals, a professional staff of 120 including six nurses two full-time investigators, an administrator, a certified public accountant, a public relations director, a general counsel, human resources director, and a full administrative staff.

Gary is a member of the National Bar Associations, the American Bar Association, American Trial Lawyers Association, Florida Academy of Trial Lawyers Association, Martin and St. Lucie County Bar Associations and the Million Dollar Verdict Club.

Gary’s scope of interest extends far beyond the courtroom.

He is chairman of the Black Family Channel, the nation’s first African-American owned and operated 24-hour cable channel that is devoted to wholesome “family values” programming for urban viewers. Based in Atlanta, Georgia, the network’s vision is to provide intelligent, family-oriented programming that embraces values in business, entertainment, sports, ministries and government. Gary also hosts a weekly talk show on the Black Family Channel featuring personal interviews with prominent guests.

Known as a businessman, churchman, humanitarian and philanthropist, Gary is deeply involved in charity and civic work. He is committed to enhancing the lives of young people through education.

In 1991, Gary donated $10.1 million to his alma mater, Shaw University. He has also donated hundreds of thousands of dollars to dozens of Historically Black Colleges and Universities throughout the U.S. In 1994, he and his wife, Gloria, formed The Gary Foundation to carry out this formidable task. The Gary Foundation provides scholarships, direction and other resources to youth, so they can realize their dreams of achieving a higher education.

His national television campaign, “Education is Power,” encourages children to stay in school and be the best that they can be. In addition to being a lawyer, a philanthropist, a media mogul and a motivational speaker, Gary continues to serve on the board of trustees of numerous universities and foundations. He has received honorary doctorates from dozens of colleges and universities.

His extensive community activities include membership in the NAACP, Florida Guardsmen, Inc., Urban League, Civilian International, the United Way of Martin County and Martin Memorial Hospital Foundation Council, and many others.

Willie and his wife Gloria have four sons, Kenneth, Sekou, Ali, and Kobie. Mr. Speaker, Willie Gary has continued to demonstrate through his work as an attorney and his commitment and generosity in helping others that he is more than worthy of our recognition today.

IN MEMORY OF DANIEL KEMP NALL
HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of Daniel Kemp Nall of Sheridan. Dan passed away on Friday, March 4th at the age of 85. I wish to recognize his life and achievements.

Dan was born on April 28, 1919 in Sheridan, and remained a citizen of Grant County for almost his entire life. Dan attended Henderson State Teachers College, and received bachelor degrees in history and physical education. Dan also earned a master’s degree in History from the University of Arkansas at Fayetteville.

Dan served his country during World War II in the United States Navy. Upon returning to Sheridan, his career path took him to education and coaching, including tenures at Hendrix College, Morrillton High School, and Sheridan High School.

After Dan retired from education, he was extremely active in the Democratic Party of Arkansas and Senior Democrats of Arkansas. Dan served as Sergeant-Of-Arms in the Arkansas State Senate during my time there, where I had the privilege of knowing Dan and counting him as a friend.

Dan’s commitment to the Sheridan community and to our state did not stop with public education. He served as President of the Arkansas Athletic Association and as Postmaster of Sheridan. He also worked as a member of the Grant County Museum Board of Directors in its founding and was named Board Member Emeritus in February 2000.

Daniel Kemp Nall will forever be remembered as a terrific husband, father, grandfather, and great grandfather. Dan’s wife,
Ms. LEE. Mr. Speaker, I rise today to honor the life and work of former Berkeley City Councilmember Margaret Breland of Berkeley, California. Serving the people of West Berkeley first as a private citizen and then as a public servant, Margaret devoted most of her adult life to improving conditions in a community she saw to be underrepresented and often overlooked. Margaret retired from the Berkeley City Council in November of 2004, and after a long battle with breast cancer, passed away on April 7, 2005.

Though Margaret was originally from Beaumont, Texas, she spent the majority of her life in Berkeley after moving there as a child with her family. The oldest of four children, she was counted on by her mother to help run the household. After graduating from Berkeley High School, Margaret became a licensed vocational nurse, an occupation in which she served for 27 years.

Margaret retired early from her work as a nurse to care for her mother in the late 1980s, but became increasingly involved in community and public service activities at Liberty Hill Missionary Baptist Church, where she was a member. As chairperson of Liberty Hill’s scholarship committee, she raised thousands of dollars every year to ensure that every church member attending college received at least $1,000 in financial assistance.

Margaret also made sure that members of her church remained informed through her work and that of others who served on the congregation’s Christian Social Concern Committee. One of the ways in which Margaret first became known to the public in Berkeley was through spearheading the ultimately successful campaign to install a traffic light at Ninth Street and University Avenue, an effort aimed at protecting children crossing the street on their way to and from the church. Margaret continued to advocate for the safety of children and others in her neighborhood not only through her work at Liberty Hill, but also as the chair of both the Human Welfare Action Committee and the West Berkeley Neighborhood Development Corporation, and through her involvement with the West Berkeley Area Plan Committee, the West Berkeley Community Cares Services Bank and the Community Advisory Board.

After several years of advocating on behalf of the residents of West Berkeley, in the mid-1990s Margaret decided to seek public office, and was elected as the District 2 representative to the Berkeley City Council in 1996. In her first term, she secured over one and a half million dollars in funding for projects and facilities located in her district, working to make up for funding gaps that she felt had long been ignored. Regardless of the challenges she faced, Margaret worked tirelessly to provide affordable housing, access to healthcare, police and fire protection, and resources and support for youth in her district. Though she struggled with her illness for much of the second half of her time in office, she remained steadfastly committed to serving her constituents, demanding daily briefings and making efforts to go to City Hall even as her condition and treatments diminished her physical strength. Margaret’s devotion to serving her constituents earned her a reputation as a candid and straightforward representative of the people, someone who was truly dedicated to serving as a voice for those without the means to advocate for themselves.

On April 15, 2005, Margaret Breland’s life and legacy will be honored at her own Liberty Hill Missionary Baptist Church in Berkeley, California. It is with great sorrow but also with great pride that I add my voice to all those that have joined together today to pay tribute to Margaret and the spirit of selflessness that she embodied. Margaret’s commitment to and concern for others set her apart as an elected official and as a human being. The generosity that led her to serve others throughout her life is an inspiration to all of us to follow her example in giving back to our communities, our country and our world.

HONORING THE CONTRIBUTIONS OF DEBORAH RODRIGUEZ, DE ZAVALA ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the enormous contributions of Deborah Rodriguez to the students at De Zavala Elementary School. A long time Texan, Mrs. Rodriguez graduated from San Marcos High School and later went on to receive her teaching degree from Texas State University. She is certified in Bilingual Education and teaches first and second grade bilingual students.

Mrs. Rodriguez credits her husband for becoming a teacher, as he comes from a family of teachers and educators. She also gives credit to the many teachers who she had when she was younger and beginning to learn English.

Mrs. Rodriguez began to teach in 1997 when her youngest child began kindergarten. She is an avid believer in her students knowing and learning to speak more than one language, because she regrets that she started school speaking only Spanish. Her mother, who spoke and read to her in both languages and gave her a strong foundation in reading and writing, is the reason why she loves to do these things with her students.

Deborah Rodriguez is one of San Marcos’ outstanding educators and I am very proud to have had this opportunity to recognize her today.
keen interest in sign language. She is absolutely committed to her students, getting to know them outside of school and treating them as members of her family. She works constantly to provide her students with better communication skills and confidence in themselves. She is a tremendous contributor to her community and to her students, and I am honored to have the chance to recognize her here today.

INTRODUCTION OF THE SPORTSMANSHIP IN HUNTING ACT

HON. SAM FARR
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. FARR. Mr. Speaker, today I, along with Representative CHRIS SHAYS and 17 other members, introduced the Sportsmanship in Hunting Act of 2005. This bill, similar to a bill I introduced last congress, gets at an issue that many would be surprised to learn even occurs, the “hunting” of an animal inside an enclosed area, a fence. By halting the interstate transport of non-included mammals to the purpose of being shot in a fenced enclosure, a fence. By halting the interstate transport of non-included mammals to the purpose of being shot in a fenced enclosure, a fence. By halting the interstate transport of non-included mammals to the purpose of being shot in a fenced enclosure, a fence. By halting the interstate transport of non-included mammals to the purpose of being shot in a fenced enclosure, a fence.

At more than 1,000 of these commercial “canned hunt” operations around the country, trophy hunters pay a fee to shoot captive exotic mammals—animals that have often lived their lives being fed by hand and thus have no fear of humans. Simply stated, there could be no easier target. Canned hunting ranches know this and can therefore offer guaranteed trophies, touting “a No Kill, No Pay” policy.

Who supports canned hunt operations? Not rank-and-file hunters. In fact, in a poll of the readership described in the July 2003 issue, the editors of Field and Stream magazine reported that 65 percent of sportsmen oppose canned hunts. Additionally, lifelong hunters in Montana, including members of the Montana Bowhunters Association, spearheaded a state ballot initiative in 2000 that led to a ban on shooting animals in fenced enclosures. In addition to Montana, 23 states have full or partial bans on canned hunts for mammals. The momentum to address canned hunt operations is no surprise given that an element of hunting that so many sportsmen hold dear, that of the “fair chase,” is absolutely absent under canned hunt conditions. The time is long overdue for the federal government to participate in efforts to end this despicable practice.

By halting the interstate transport of non-indigenous mammals used in canned hunts, the Sportsmanship in Hunting Act will curb a practice so egregious that hunters and animal advocates alike view it as unfair and inhumane.

This bill is supported by numerous local and national groups representing more than 10 million Americans.

Mr. Speaker, in closing, I encourage my colleagues to join me in putting a lid on canned hunts.

REMEMBERING THE LIFE OF DR. SAMUEL PROCTOR MASSIE

HON. ALICE L. HASTINGS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to commend the outstanding life of Dr. Samuel P. Massie, who passed away at the age of 85 on April 10, 2005.

Dr. Massie, a chemistry professor, was the first African American to teach at the U.S. Naval Academy in Annapolis, Maryland. As a young graduate student, Dr. Massie worked on the Manhattan Project where he and other scientists made liquid compounds of Uranium for the making of an atomic bomb. He also conducted pioneering silicon chemistry research and investigated antibacterial agents. Dr. Massie held the patent for chemical agents effective in battling gonorrhea. Additionally, he received awards for research in combating malaria and meningitis, worked on drugs to fight herpes and cancer and developed protective foams against nerve gases.

Dr. Massie was a former professor at several historically black colleges including my alma mater, Fisk University. Dr. Massie was instrumental in encouraging African American and other minority students to pursue science careers.

Samuel Proctor Massie Jr. was born in North Little Rock, Arkansas, the son of two schoolteachers. It is purported that he could read at a third grade level by the time he entered the first grade. He graduated high school at the age of 13 and went on to graduate Summa Cum Laude in chemistry from Arkansas Agricultural, Mechanical and Normal College (now the University of Arkansas at Pine Bluff) in 1936. He then received a Master’s degree in Chemistry from Fisk University in 1940.

I met Dr. Massie when I was a student at Fisk University, where he was teaching physical chemistry. It was an extremely difficult class and as a boy who had received an education in the rural, segregated south, all of this was unfamiliar territory. I was failing his class and Dr. Massie came to me and said, “Young man, you’re going to fail this class, sign this card and drop the class.” I did, and Dr. Massie credits himself as the reason I became a lawyer.

Dr. Massie was a remarkable chemist, academician, and friend. His accomplishments are too many to mention and the lives he’s impacted too numerous to count. He will forever be remembered for his character and his extraordinary work.

HONORING THE CONTRIBUTIONS OF GAYLE RHOADES, SAN MARCOS HIGH SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the countless contributions of Gayle Rhoades, San Marcos High School Teacher of the Year.

Gayle Rhoades has a Bachelor of Science degree from Mississippi State University. She has been teaching Academic Biology and Pre-AP Biology at San Marcos High School for the past four years. She combines tough discipline and dedication to helping individual students into an effective teaching strategy.

Ms. Rhoades has recently proved herself in one of her school’s toughest assignments, as a teacher in the PASS program. PASS is a program for second and third year freshman repeaters. Many of the students in the program have persistent attendance and discipline problems, and are resistant to authority and advice. Ms. Rhoades has dealt with these students with firmness and patience, and her efforts have paid off. Many of her students credit her with putting them on a path to graduation and success in the face of considerable odds.

Ms. Gayle Rhoades has been a tremendous role model and source of support for her students, and an excellent resource for her school system and community. She has taken up challenging assignments without complaint, and changed numerous lives for the better. She represents the best of our public education system, and I am proud to have the opportunity to recognize her here.

DEATH TAX REPEAL PERMANENCY ACT OF 2005

SPEECH OF HON. TODD TIAHRT
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, April 13, 2005

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of H.R. 8, the Death Tax Repeal Permanency Act of 2005. This bill would put an end to the estate tax, commonly referred to as the death tax.

My only disappointment in voting to eliminate the death tax this year is that we must again wait for the Senate to follow suit. The House has already voted to permanently repeal this tax in both the 107th Congress and the 108th Congress. Unfortunately, the Senate has not been able to pass this permanent repeal.

I am very pleased, however, that the House has once again listened to the people and will try to nail the coffin shut on the death tax. Asking families to pay taxes on what is left behind when a loved one dies is simply not the right way for a government to collect taxes.

Throughout our history, Americans have worked vigorously to achieve great success despite extraordinary hardships. Farmers have tilled the earth, inventors have exercised their ingenuity, builders have constructed, entrepreneurs have established businesses, and in the process of becoming successful, wealth is created. When a person successfully pursues a dream and wisely manages resources over a lifetime, the federal government should not require these accomplishments with by seizing a significant portion of what he intended to pass along to the family.

As is often the case, family farmers or small business owners make plans to pass the family business to their children after they die. Unfortunately, due to burdensome death taxes, there are countless examples of families who have been forced to sell the business or purchase it back from the government.
As a result, a business that has been in a family for generations can be lost overnight because of the enormous burden of the death tax. And when a business leaves its family roots, there can be a loss of pride in the fundamental traditions that helped make the business successful. Not only do the legacy parents want to leave their children and grandchildren

Aside from the harmful effects the death tax has on family small businesses, there is an inherent injustice in re-taxing assets. Because taxes have already been paid on accumulated gains over a lifetime, the death tax constitutes a double taxation. Re-taxing a person's assets when they die is equivalent to purchasing from the government what already belongs to a family.

Resources that otherwise would have been utilized to hire more employees or invest in capital are underused when families are forced to make alternative plans for dealing with the death tax. This results in fewer jobs and a less robust economy.

According to the Joint Economic Committee, the death tax results in a reduction of stock in the economy by nearly $500 billion. When businesses cease to grow efficiently, fewer jobs are made available to the unemployed.

South-central Kansas has experienced several years of high unemployment following the economy's return after 9/11. We need all we can to help bring jobs back to those who need them. Permanently eliminating the death tax is one way we can help the economy fully rebound, which means more high-quality, high-paying jobs for Americans.

Secondly, small businesses are so important in providing jobs for Americans, the death tax is a tax on jobs. Small, family-owned businesses are especially vulnerable to the death tax because most small-business owners have the entire value of their business in their estate.

According to one study, more than 70 percent of family businesses do not survive the second generation, and 87 percent do not make it to the third generation. The threat of the death tax forces small-business owners to pay for "estate planning" just to keep the business in the family. Instead of helping families maintain and grow their small businesses, the Federal Government will be able to seize about half the business unless the death tax is repealed.

I urge my colleagues to join me today in once again voting to end this tax that has caused so much harm to so many American families.

RECOGNIZING THE LIFE AND WORK OF OFFICER STEVEN ZOURKAS

HON. JANICE D. SCHAJKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in honor and remembrance of Steven Zourkas, devoted husband, father, brother, friend and dedicated public servant. Mr. Zourkas' commitment to the safety of residents defined his four-year tenure of outstanding service as a police officer with the Village of Niles. He also served as an evidence technician with the North Regional Major Crimes Task Force.

Mr. Zourkas graduated from Niles North High School. A former paramedic, Mr. Zourkas joined the Niles Police Department four years ago and rose to become one of the department's top auto accident investigators. The Niles Village Board recently honored Zourkas at their March 22, 2005, meeting for helping to solve burned-out vehicles. Friends and colleagues said they will remember Mr. Zourkas for his tremendous personality and utmost dedication to his job. Mr. Zourkas died after losing control of his police car to avoid hitting a pedestrian. Mr. Zourkas saved a man's life but in the process lost his own. Mr. Zourkas is believed to be the first Niles police officer to die in the line of duty.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mr. Steven Zourkas. As a police officer, Mr. Zourkas dedicated his professional life to the safety of his officers and the security and safety of the entire Village of Niles. I extend my deepest condolences to his beloved wife, Ivy; his beloved sons, Andrew and John; his beloved parents, Anthony and Elaine Zourkas; his beloved brothers, George and Tim; and also to his extended family and many friends. His courage and kindness will live on forever within the hearts and memories of his family, friends, and the public he so faithfully served.

I commend my Colleagues' attention to the article remembering Mr. Zourkas, which was published in the Niles Journal on April 13, 2005.

"HE'LL BE SORELY MISSED"—NILES POLICE REMEMBER FIRST OFFICER TO DIE IN LINE OF DUTY

By Michael Sebastian

During a damp and cool Tuesday morning more than 250 squad cars from various Illinois police departments followed a somber procession through Niles to Elmwood Cemetery in River Grove where the first Village of Niles police officer to die in the line of duty was laid to rest.

Niles police Officer Steven Zourkas, 33, was killed early last Friday (Apr. 8) while traveling in his squad car west along Golf Road. Zourkas was heading to a disturbance call that was reported near a river. The officer was the passenger at Omega Restaurant, 9100 W. Golf Rd., when he lost control of his squad car and crossed over into the eastbound lanes of traffic on Golf Road. The car slid to a violent halt in the Highland Towers condominium parking lot after it turned over on its passenger side and struck two parked cars. The accident, which occurred in the vicinity of Golf Road, snarled traffic last Friday morning for hours. Emergency workers crowded the scene as radio and television helicopter coverage hovered above.

Officials said Officer Zourkas died at the scene from injuries associated with the accident. He was 33 years old and a member of the Niles Police Department for about four years. He is survived by his wife and a five month old son. Officials would only say Zourkas was from a "far northwest suburb." As accident investigators from the Cook County Sheriff's office continue to piece the morning's events together, reports have indicated that Zourkas swerved his squad car to avoid a pedestrian who was stepping off the curb on Golf Road as the officer approached. Although this could not be confirmed with police by press time, Niles Mayor Nicholas Blase said for the first time in the Niles police Dept. last week to tell officials he was the man that stepped from the curb.

Niles police Sgt. James Elenz noted last week that Zourkas was among the department's top auto accident investigators. Flags have flown at half staff in Niles since the tragic accident occurred last Friday. Black and purple cloth is draped over the entrance to the Niles Police Station, at Touhy and Milwaukee Avenues, in honor of Mr. Zourkas. Niles police officers also wore black armbands in memory of their fallen member.

Friday's accident marks the first time in Village of Niles history that a police officer died in the line of duty. Village Manager Mary Kay Morrissey said social workers and grief counselors have been available to help those mourning Zourkas. Representatives of the second and third shifts have shuffled their schedules so the officers who worked with Zourkas during the first shift, which lasts into the morning's wee hours, can begin coping with the loss. According to Blase, a female officer at the department is continuing to help Zourkas' wife as she mourns the loss of her husband.

"He was one of those very well liked policeman—exceptionally so," Mayor Blase said.

Members of the police department are describing Zourkas as man with a tremendous personality who was very dedicated to his job.

"Everyone liked him," Blase said about Zourkas. "He was a very able guy and because of that the tragedy intensifies.

"So many people are grieving. 'He'll be sorely missed.'"

The funeral held Tuesday was an appropriate send-off for Zourkas, said Niles fire Deputy Chief Barry Mueller, who, along with others from the village, attended the ceremonies. Two fire engines from Elmwood Park crossed their ladders at the entrance of the cemetery in River Grove. A large American flag was draped from the ladders. Later, about 25 bagpipers played, Mueller said.

Village Manager Mary Kay Morrissey said being part of the enormous line of mourners driving from the funeral mass to the cemetery was unlike anything she'd ever seen before. Squad cars with their lights activated stretched as far as most in the procession could see. Blase estimated that at least one hundred Illinois police departments, probably more, were represented during the ceremony. One hundred Illinois police departments, probably more, were represented during the ceremony. Some in the procession are representing the department, he said.

Streets in each community the funeral procession passed were blocked by various law enforcement departments. Mausoleums said. Even ramps leading to and from I-90 were blocked to way make for the mourners.

Morrissey praised the Niles Police Dept. for organizing the funeral during this difficult time. "There's certain protocol you follow when someone is killed in action," Morrissey explained. "I'm very proud of the way the police came together.

Visitiation took place at Colonel Wojciechowski Funeral Home, 8025 W. Golf Rd., on Monday (Apr. 11). Tuesday the line of mourners proceeded from the funeral home to St. Isaac Jogues Church at 8149 Golf Road for a funeral mass. Various lanes of traffic on Golf Road were blocked-off Tuesday from about Washington Ave. as far north to Golf Road. Streets leading into Golf Road were also closed, officials said.

The funeral procession traveled from St. Isaac Jogues south along Milwaukee Avenue to Touhy Avenue so Zourkas could once more pass the Niles Police Dept. The car turned from Touhy Avenue onto Cumberland then south to Belmont Avenue and the cemetery.
HONORING THE CONTRIBUTIONS OF HULDA KERCHEVILLE

HON. HENRY CUELLAR
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the public service of Hulda Kercheville of Hernandez Intermediate School.

Hulda Kercheville grew up in Martindale, Texas. As the eldest of six children, she spent much of her youth helping her parents care for her of siblings.

Mrs. Kercheville has chosen to lead a life filled with good examples for our children. She is no stranger to hard work, having served as both an educator and a former Hays County Constable.

Hulda Kercheville has taught our kids for the last thirty-five years. She is retiring from Hernandez Intermediate, and receiving the honorary distinction of Teacher of the Year.

Hulda Kercheville survives her husband Jack Kercheville. Her four children: Michael, Cheryl, Mary, and Jaclyn, now have children and grandchildren of their own.

It is an honor to recognize the hard work and dedication of Hulda Kercheville. Her passion for the education of our students has inspired generations of Texans.

HONORING SUPER BOWL XXXIX’S MOST VALUABLE PLAYER, DEION BRANCH

HON. SANFORD D. BISHOP
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to recognize the outstanding athlete and a beloved Georgian, Deion Branch day.

Branch caught 10 passes for 143 yards, in a hard-fought victory in the Super Bowl record with 11 catches for a total of 133 yards. In Super Bowl XXXIX, which the Patriots won 32–29 over the Carolina Panthers, Deion Branch caught 10 passes for 143 yards, including the game’s first touchdown and the catch that set up the Patriots’ winning field goal. He should have won MVP then, but this year he bested even himself, tying the Super Bowl record with 11 catches for a total of 133 yards.

From the days when he was deemed too small for middle school football, to his years on the Monroe High School team, to the University of Louisville, to his historic career in professional football, Deion Branch has made up for what he lacks in size with a spirit and a talent that defines him as one of the best to ever play the game.

This Saturday, April 23, 2005, we will be observing “Deion Branch Day” in the City of Albany, with all of the pomp and circumstance due our hometown hero. But here in these hallowed walls, I rise on behalf of the city of Albany, Georgia, the 2nd Congressional District and football fans everywhere to recognize his outstanding achievement and to wish him continued success in his already remarkable career.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

SPEECH OF
HON. DENNIS MOORE
OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act.

The bankruptcy bill before us today is the product of years of bipartisan discussions and compromises, and while this legislation is not perfect, it is a serious, good faith effort to reform our bankruptcy laws and reduce the worst abuses in the consumer bankruptcy system. The House has passed substantially similar legislation with strong majorities in each of the last four Congresses, and the Senate followed suit last month when it passed S. 256 by a 3–1 margin. Bankruptcy filings have increased by 70 percent over the last decade, and last year alone Americans filed over 1.6 million consumer bankruptcy petitions. S. 256 will not eliminate bankruptcy filings in our country, but it is a necessary effort to change the status quo and ensure that only those debtors who most need the bankruptcy system will be able to use it.

S. 256 would raise the repayment priority of domestic support obligations, including alimony and child support, from seventh to first, and would make failure to pay domestic support obligations a cause for conversion or dismissal of a debtor’s case.

S. 256 would also protect tax-exempt retirement savings accounts from creditors’ claims. The bill expressly upholds the Supreme Court’s recent ruling that creditors may not seize Individual Retirement Accounts [IRAs] when people file for bankruptcy, ensuring protection for retirement accounts relied upon by millions of Americans. Consequently, IRAs now join 401(k)s, Social Security, and other benefits tied to age, illness or disability that are afforded protection under bankruptcy law.

Further, S. 256 would make non-dischargeable credit card purchases of $500 or more, if made within 90 days of filing for bankruptcy, and all cash advances that total $750 or more, if made within 70 days of filing. Sometimes consumers who will have to file for bankruptcy protection make excessive purchases on credit with the full knowledge that they will never have to repay this debt. Approximately $44 billion in consumer debt is erased each year through bankruptcy, and this discharged debt increases the costs of goods and services for all consumers. Retailers pass on to consumers the costs that are lost to bankruptcy, and the means test included in S. 256 could save between $4 billion and $5 billion of this discharged debt.

Additional measures the bill seeks to tighten the homestead exemption by limiting the amount of equity a homeowner could protect if a piece of property in a homestead exemption state is purchased within the 40-month period prior to a bankruptcy filing. Bankruptcy filers convicted of a range of crimes, including fraud, violations of securities laws, and criminal acts resulting in injury or death would lose the ability to shield their assets in property holdings regardless of when they purchased their property. The bankruptcy bill’s homestead exemption provisions attempt to ensure that wealthy debtors with the means to payoff at least some of their debts will no longer be able to hide behind the bankruptcy system.

As some opponents of the bill have noted, some debtors are forced to file for bankruptcy as a result of unmanageable medical bills, divorce, or job loss. These financial hardships unfortunately happen every day, and too often prevent honest, hardworking individuals and families from getting ahead or pulling themselves out of debt. This legislation seeks to protect the ability of these debtors to file for relief under Chapter 7 of the bankruptcy code by creating a means test that will continue to allow low-income debtors who earn less than the median income of the state in which they live to file under Chapter 7. According to the 2000 Census, the median household income in my congressional district is approximately $51,000. The means test recognizes that those in our society who are the least able to repay their debts should have the opportunity to enjoy a fresh start in life, because many debtors are forced to file for bankruptcy as a result of medical expenses. S. 256 allows bankruptcy filers to challenge the means test by demonstrating “special circumstances,” such as a serious medical condition, that justifies additional expenses or adjustments to their income. Individuals who are forced to file for bankruptcy due to medical expenses should be able to emerge from bankruptcy with the possibility of a second chance in life.

Finally, S. 256 contains several provisions that seek to improve consumers’ financial literacy in an attempt to decrease the total number of future bankruptcy filings. The bill would require debtors to receive credit counseling from a non-profit credit counseling agency prior to filing for bankruptcy, and requires filers to complete an approved instructional course on personal financial management before receiving a discharge under either Chapter 7 or Chapter 13.

Mr. Speaker, while S. 256 is certainly not a perfect piece of legislation, it is my hope that this bill will reduce the number of bankruptcy filings in our country and maintain a fair bankruptcy system for those who need it the most in our society.

HONORING THE CONTRIBUTIONS OF MARY ANNE GUERRERO KOLB, CROCKETT ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Mary Anne Guerrero Kolb, Crockett Elementary School Teacher of the Year.

Kolb graduated from Texas State University in 1974 with a B.S. in education, and in 1981 with a Masters in Education. She has taught kindergarten for the San Marcos Consolidated Independent School District for 30 years, and has been a faculty advisor for their annual kindergarten news paper. Kolb is a life-long learner, a student of the art and science of teaching. She is a creative educator, an inspiration to students and teachers alike. She is a tireless contributor to the field of education, and has been an active member of the Crockett Elementary School PTA. She is a respected member of the community, and has been a role model for generations of students. Mr. Speaker, I rise today to honor one of our finest educators, Mary Anne Guerrero Kolb, Crockett Elementary School Teacher of the Year.
The Employee Free Choice Act is a bipartisan bill designed to provide a realistic ability for working men and women to form and join unions.

The Employee Free Choice Act provides: A simple, fair, direct method for workers to form unions by signing cards or petitions; three times the amount of lost pay when a worker is fired during an organizing campaign or first-contract negotiations; and impartial mediation or arbitration to resolve disputes over first-time labor contracts.

Employees and the nation benefit from a strong union movement. Median weekly wages of union workers are 28% higher than nonunion workers. Almost 70% of union workers have a guaranteed retirement benefit, five times the likelihood for a nonunion worker. Eighty percent of union workers have health insurance compared to 50% of nonunion workers.

The ten States with the highest percentage of organized workers have higher household incomes, greater medical insurance coverage, higher education spending per pupil, lower violent crime rates, fewer people living in poverty, and a greater electoral participation than the ten States with lowest percentage of organized workers. This issue is not just about human rights—it’s about economic security for us all.

Workers should be able to make the decision about union representation without intimidation, indoctrination or misinformation. When we undercut the ability of working men and women to join unions, we are abandoning our own history and ideals, and sending a terrible message to the rest of the world. I commend the legislation today to protect workers from forced arbitration and prevent union elections from being rigged against them.

Workers' rights are not just a civil right, they are a human right. Women represent two-thirds of the workforce and a growing number of women are union members. However, women are still paid less than men despite similar education, skills and experience. Compounding this situation is the reality that women are still paid less than men—on average, $10.85 per hour—men earn merely 53 cents and African American women earn 65 cents for every dollar that men earn. We must recognize workplace discrimination and barriers faced by women of color across the country.

The wage gap between men and women is unacceptable. That is why I strongly support the “Paycheck Fairness Act,” introduced by Representative DeLAURO. This bill will take the necessary steps to eliminate gender-based wage discrimination and ensure that women will finally earn what men earn for doing the same job. I urge Congress to pass this bill and end wage discrimination for all women.

HONORING THE CONTRIBUTIONS OF ROSALINDA DE LA ROSA, BONHAM EARLY CHILDHOOD CENTER TEACHER OF THE YEAR

HON. HENRY CUELLAR
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005
Mr. CUellar, Mr. Speaker, I rise to recognize Teacher of the Year Rosalinda De La Rosa for her countless contributions to the children of the Bonham Early Childhood Center.

Mrs. De La Rosa began her career at Bonham by teaching Pre-Kindergarten Bilingual Education. She has now taught at Bonham for 2 years. She has a Bachelor of Science in Elementary Education from Texas State University and she is certified in Early Childhood Education and Bilingual Education.

Mrs. De La Rosa is a teacher who loves to shape and mold the minds of her students. She helps them understand that school is a safe and wonderful environment and encourages them to learn everything that they can. She teaches them that even though they may be young they are important to the class, and she helps them understand about classrooms and rules.

Her goal as a teacher is to make every day an enjoyable day by letting her preschoolers know that she cares about them and that she is there to listen to their concerns.

Mr. Speaker, I am proud to have Mrs. De La Rosa teaching the students of my district and I am honored to have had the chance to recognize her today.

HONORING THE 70TH ANNIVERSARY OF THE WOODBURY LIONS CLUB

HON. BART GORDON
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005
Mr. GORDON. Mr. Speaker, I rise today to honor the 70th anniversary of the Woodbury Lions Club. The Lions Club motto is “We Serve,” and for 70 years, the Woodbury Lions have been serving Cannon County well.

The Woodbury Lions Club has grown significantly from its humble beginnings in 1935 when Minor Bragg first explained Lionism to a
group of men in Lee Baker’s Drug Store. Weeks later, 21 men formed the club in S.D. Wooten’s Grocery Store. Now, the club has more than 100 members and meets in Lions Memorial Building.

The Lions may be best known for their outstanding work in providing vision services to the needy. When Helen Keller addressed the Lions Club’s 1925 International Convention, she called upon them to become “Knights of the Blind in the crusade against darkness.” The Lions answered that call. Today, more than 46,000 clubs worldwide are dedicated to providing vision screening in schools as well as eyeglasses and surgery to those in need.

Lions also are committed to building parks and working with youth in their communities. The Woodbury Lions have built Lions Field and a walking trail to provide residents with more opportunities to enjoy the natural beauty of Cannon County. In addition, the Lions work closely with organizations such as Boy Scouts and 4–H. They also have introduced Lioness and Leo Clubs at local schools to instill the value of service to our future leaders.

Woodbury is a better place because of the wonderful work of the Woodbury Lions Club. I commend the Lions for all they do, and I congratulate them on 70 years of service.

HONORING THE CONTRIBUTIONS OF SHERRI HARRIS STOKES, MILLER JUNIOR HIGH TEACHER OF THE YEAR

HON. HENRY CUELLAR OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the accomplishments of Sherri Harris Stokes, Miller Junior High Teacher of the Year.

Mrs. Stokes has a Bachelor of Science degree in Elementary Education from Texas A&M University. She is certified in kindergarten, mathematics, and gifted and talented education. She has taught mathematics at Miller Junior High for 6 years, and is already producing excellent results.

Mrs. Stokes knows that math can be intimidating for many students, and works constantly in her classroom to make mathematics more accessible, and to help her students build confidence in the subject. She constantly challenges her students and encourages them to try new things, an approach she learned from the mentors who were important in her own development.

She has been heavily involved in helping students grow outside her classroom, as well. She has served for 3 years as the Math Department Chair, 4 years as a National Junior Honors Society Sponsor, and 1 year as a Student Council Sponsor. She strives to make a personal connection with students, continuing to check on their progress as they move forward into high school.

Teachers of math are enormously important for getting our children ready for the jobs of the 21st century, and Mrs. Stokes has worked unfailingly toward that goal. Her commitment to education and to her students is laudable, and I am proud to have had the chance to recognize her here today.
Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S3865–S3957

Measures Introduced: Fifteen bills and three resolutions were introduced, as follows: S. 838–852, S.J. Res. 14–15, and S. Res. 113.

Measures Reported:

S. 50, to authorize and strengthen the National Oceanic and Atmospheric Administration’s tsunami detection, forecast, warning, and mitigation program, with an amendment in the nature of a substitute. (S. Rept. No. 109–59)

S. 361, to develop and maintain an integrated system of ocean and coastal observations for the Nation’s coasts, oceans and Great Lakes, improve warnings of tsunamis and other natural hazards, enhance homeland security, support maritime operations. (S. Rept. No. 109–60)

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:

Adopted:

Cochran (for Bond) Amendment No. 547, to appropriate $5,000,000 for the Office of Federal Housing Enterprise Oversight to meet emergency funding needs; which are supported by fees collected from regulated Government Sponsored Enterprises.

Cochran (for Landrieu) Amendment No. 527, to modify the provision relating to offshore oil and gas fabrication ports.

Cochran (for Santorum) Amendment No. 441, to allow certain appropriated funds to be used to provide loan guarantees.

Cochran (for Reid) Amendment No. 407, to provide assistance for the conduct of agricultural and natural resource conservation activities in the Walker River Basin, Nevada.

Subsequently, the amendment was modified.

Cochran (for Byrd) Amendment No. 476, to transfer funds relating to certain watershed programs of the Department of Agriculture.

Subsequently, the amendment was modified.

Cochran (for Leahy) Amendment No. 548, to encourage the Government of Ecuador to take urgent measures to protect the biodiversity of the Galápagos.

Kyl Amendment No. 555 (to Amendment No. 387), to modify the criteria for excluding certain H–2B workers from the numerical limitations under section 214(g)(1)(B) of the Immigration and Nationality Act.

By 94 yeas to 6 nays (Vote No. 102), Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants, as amended.

Hutchison/Schumer Modified Amendment No. 379, to make unused EB3 visas available to bring nurses to the United States through Department of State procedures.

Cochran (for Shelby) Amendment No. 543, to release to the State of Arkansas a reversionary interest in Camp Joseph T. Robinson.

Durbin Modified Amendment No. 427, to require reports on Iraqi security services.

Dorgan/Durbin Amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO.

Cochran (for Shelby) Amendment No. 560, to clarify funding for judicial security enhancements.

Cochran (for Reid) Amendment No. 561, to modify the provision relating to agricultural and natural resource conservation activities in the Walker River Basin, Nevada.
Cochran (for Reid) Amendment No. 562, to modify the provision relating to the water lease and purchase program for the Walker River Paiute Tribe.

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Pending:

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.

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.

Salazar Amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Reid Amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) Amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) Modified Amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine Amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine Amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer Amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

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Reid (for Reed/Chafee) Amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent resident.

Chambliss Further Modified Amendment No. 418, to prohibit the termination of the existing joint-service multiyear procurement contract for C/KC–130J aircraft.

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Bingaman Amendment No. 483, to increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States.

Bingaman (for Grassley) Amendment No. 417, to provide emergency funding to the Office of the United States Trade Representative.

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Isakson Amendment No. 429, 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, and to ensure expeditious construction of the San Diego border fence.

Byrd Amendment No. 463, to require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports.

Warner Amendment No. 499, relative to the aircraft carriers of the Navy.

Sessions Amendment No. 456, to provide for accountability in the United Nations Headquarters renovation project.

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Boxer/Bingaman Amendment No. 444, to appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems.

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Lincoln Amendment No. 481, to modify the accumulation of leave by members of the National Guard.

Reid (for Durbin) Amendment No. 443, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

Reid (for Bayh) Amendment No. 388, to appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

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Reid (for Biden) Amendment No. 537, to provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities.
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by suspending a portion of the reduction in the highest income tax rate for individual taxpayers.

Reid (for Feingold) Amendment No. 459, to extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office.

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Ensign Amendment No. 487, to provide for additional border patrol agents for the remainder of fiscal year 2005.

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Byrd Amendment No. 516, to increase funding for border security.

Page S3867–68

Reid (for Biden) Amendment No. 440, to appropriate, with an offset, $6,000,000 for the Defense Health Program for force protection work and medical care at the Vaccine Health Care Centers.

Page S3888–90

During consideration of this measure today, Senate also took the following actions:

By 21 yeas to 77 nays (Vote No. 97), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on Frist (for Chambliss/Kyl) Amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Page S3866–67, S3868–79

By 53 yeas to 45 nays (Vote No. 98), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on Frist (for Craig/Kennedy) Modified Amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

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By 91 yeas to 7 nays (Vote No. 99) Senate agreed to the motion to instruct the Sergeant At Arms to request the attendance of absent Senators.

Page S3884

By 56 yeas to 42 nays (Vote No. 100) Senate agreed to the modified motion to recess until 5 p.m. today.

Page S3884–85

By 83 yeas to 17 nays (Vote No. 101), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on Mikulski Amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Page S3885–86

By a unanimous vote of 100 yeas (Vote No. 103), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill.

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m., and that, notwithstanding morning business, and the adjournment of the Senate, all time be counted against cloture under Rule XXII.

Nominations Received: Senate received the following nominations:

Alex Azar II, of Maryland, to be Deputy Secretary of Health and Human Services.

1 Army nomination in the rank of general.

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Messages From the House:

Measures Read First Time:

Executive Communications:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Amendments Submitted:

Notices of Hearings/Meetings:

Authority for Committees to Meet:

Record Votes: Seven record votes were taken today. (Total—103) Pages S3879, S3884, S3884–85, S3886, S3887, S3888

Quorum Calls: One quorum call was taken today. (Total—2)

Adjournment: Senate convened at 9:45 a.m., and adjourned at 7:42 p.m., until 9:30 a.m., on Wednesday, April 20, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S3957.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: LIBRARY OF CONGRESS/GAO

Committee on Appropriations: Subcommittee on Legislative Branch concluded a hearing to examine proposed budget estimates for fiscal year 2006, after receiving testimony in behalf of funds for their respective activities from James H. Billington, Librarian of Congress, and Chairman of the Board of Trustees, Open World Leadership Center, and David M. Walker, Comptroller General of the United States, Government Accountability Office, who were both accompanied by several of their associates.
NOMINATIONS

Committee on Armed Services: Committee concluded a hearing to examine the nominations of Gordon England, of Texas, to be Deputy Secretary of Defense, who was introduced by Senators Hutchison and Cornyn, and Admiral Michael G. Mullen, USN, for reappointment, to the grade of admiral and to be Chief of Naval Operations, after the nominees testified and answered questions in their own behalf.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on SeaPower concluded a hearing 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, after receiving testimony from John J. Young, Jr., Assistant Secretary of the Navy for Research, Development, and Acquisition; Vice Admiral Joseph A. Sestak, Jr., USN, Deputy Chief of Naval Operations for Warfare Requirements and Programs, United States Navy; and Lieutenant General Robert Magnus, USMC, Deputy Commandant for Programs and Resources, and Lieutenant General James N. Mattis, USMC, Commanding General, Marine Corps Combat Development Command, both of the U.S. Marine Corps.

HOUSING GOVERNMENT SPONSORED ENTERPRISES

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine proposals to improve the regulation of the Housing Government Sponsored Enterprises, after receiving testimony from David E. Hayes, Security Bank, Dyersburg, Tennessee, on behalf of the Independent Community Bankers of America; Al Mansell, Coldwell Banker Residential Brokerage, Midvale, Utah, on behalf of the National Association of Realtors; William A. Longbrake, The Financial Services Roundtable, and David F. Wilson, National Association of Home Builders, both of Washington, D.C.; Marc Savitt, The Mortgage Center, McLean, Virginia, on behalf of the National Association of Mortgage Brokers; Harry P. Doherty, Independence Community Bank Corporation, Brooklyn, New York, on behalf of America’s Community Banks; Michael F. Petrie, P/R Mortgage and Investment Corporation, Carmel, Indiana, on behalf of the Mortgage Bankers Association; and Nancy O. Andrews, Low Income Investment Fund, San Francisco, California.

OFFSHORE ENERGY PRODUCTION

Committee on Energy and Natural Resources: Committee concluded a hearing 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, after receiving testimony from Admiral James D. Watkins, USN (Ret.), Chairman, United States Commission on Ocean Policy; R.M. “Johnnie” Burton, Director, Minerals Management Service, Department of the Interior; Robert W. Thresher, Director, National Wind Technology Center, National Renewable Energy Laboratory, Department of Energy; Virginia State Senator Frank W. Wagner, Virginia Beach; Scott A. Angelle, Louisiana Department of Natural Resources, Baton Rouge; Charles D. Davidson, Noble Energy, Inc., Houston, Texas, on behalf of the Domestic Petroleum Council, and the Independent Petroleum Association of America; and Debbie Boger, Sierra Club, Washington, D.C.

WATER AND POWER BILLS

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded a hearing 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 Subbasins 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, after receiving testimony from Bill Rinne, Deputy Commissioner, Director of Operations, Bureau of Reclamation, Department of the Interior; Wayne Halbert, Harlingen Irrigation District, Harlingen, Texas; Tod Heisler, Deschutes River Conservancy, Bend, Oregon; Jim Hill, City of Medford Water Reclamation Division, Medford, Oregon; and Ernie Schank, Truckee-Carson Irrigation District, Fallon, Nevada.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported the following bills:

An original bill, entitled Highway Reauthorization and Excise Tax Simplification Act of 2005; and
S. 661, to amend the Internal Revenue Code of 1986 to provide for the modernization of the United States Tax Court, with an amendment in the nature of a substitute.

**MIDDLE EAST EDUCATIONAL REFORM**

*Committee on Foreign Relations*: Committee concluded a hearing to examine the Near East and South Asian experience relating to combating terrorism through education, focusing on education reform in the Middle East, after receiving testimony from Elizabeth L. Cheney, Principal Deputy Assistant Secretary of State for Near Eastern Affairs; James Kunder, Assistant Administrator for Asia and the Near East, U.S. Agency for International Development; Bassem Awadallah, Minister of Finance, Hashemite Kingdom of Jordan, Amman; Shahid Javed Burki, Nathan Associates, Potomac, Maryland; Samina Ahmed, International Crisis Group, Islamabad, Pakistan; and Frank J. Method, Research Triangle Institute International, Washington, D.C.

**NOMINATION**

*Committee on Foreign Relations*: Committee met and began consideration of the nominations of John Robert Bolton, of Maryland, to be U.S. Representative to United Nations, with the rank and status of Ambassador and U.S. Representative in the Security Council of the United Nations, and Representative to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations, but did not take final action thereon, and recessed subject to the call.

**DRUG IMPORTATION**

*Committee on Health, Education, Labor, and Pensions*: Committee held a hearing to examine S. 334, to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, receiving testimony from Senators Snowe, Vitter, Dorgan and Stabenow; Graham Satchwell, Proco Solutions, London, United Kingdom; Todd Cecil, United States Pharmacopeia, Rockville, Maryland; Thomas C. Arthur, Emory University School of Law, Atlanta, Georgia; and David A. Kessler, University of California-San Francisco School of Medicine, San Francisco.

Hearings recessed subject to the call of the Chair.

**TELECOMMUNICATIONS INDUSTRY MERGERS**

*Committee on the Judiciary*: Committee held a hearing to examine the SBC/ATT and Verizon/MCI mergers relating to remaking the telecommunications industry, focusing on ramifications effecting competition for local, long-distance, and wireless telephone services, and internet-based services, receiving testimony from Carl Grivner, XO Communications, Inc., Reston, Virginia; Jeffrey Citron, Vonage Holdings Corporation, Edison, New Jersey; and Scott Cleland, Precursor Group, and Gene Kimmelman, Consumers Union, both of Washington, D.C.

Hearing recessed subject to the call.

**CIVILIAN LIFE TRANSITION**

*Committee on Veterans Affairs*: Committee concluded a hearing to examine "Back from the Battlefield, Part II: Seamless Transition to Civilian Life", focusing on outreach to military service men and woman, including Reserve and National Guard members during their induction into service, during service, and when preparing to separate or retire from the military, after receiving testimony from Daniel L. Cooper, Under Secretary of Veterans Affairs for Benefits; John M. Molino, Deputy Under Secretary of Defense for Military Community and Family Policy; Frederico Juarbe, Jr., Assistant Secretary of Labor for Veterans Employment and Training, Veterans Employment and Training Service; Lieutenant John Fernandez, USA (Ret.), Rocky Point, New York; and Tristan Wyatt, Washington, D.C.

**PATRIOT ACT**

*Select Committee on Intelligence*: Committee concluded a hearing to examine the USA PATRIOT Act (Public Law 107–56), after receiving testimony from Gregory T. Nojeim, American Civil Liberties Union, and James X. Dempsey, Center for Democracy and Technology, both of Washington, D.C.; and Heather MacDonald, Manhattan Institute for Policy Research, New York, New York.
House of Representatives

Chamber Action

Additional Cosponsors:

Reports Filed: Reports were filed today as follows:
H.R. 866, to make technical corrections to the United States Code (H. Rept. 109–48); and
H. Res. 219, providing for consideration of H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy (H. Rept. 109–49).

Speaker: Read a letter from the Speaker wherein he appointed Representative Fortenberry to act as Speaker Pro Tempore for today.

Chaplain: The prayer was offered today by Rev. Timothy B. Johnson, Pastor, The Church of the Redeemer in Bowie, Maryland.

Recess: The House recessed at 1:07 p.m. and reconvened at 2 p.m.

Suspensions: The House agreed to suspend the rules and pass the following measures:

Sense of Congress regarding the issuance of the 500,000th design patent by the U.S. Patent and Trademark Office: H. Con. Res. 53, expressing the sense of the Congress regarding the issuance of the 500,000th design patent by the United States Patent and Trademark Office;

Family Entertainment and Copyright Act of 2005: S. 167, to provide for the protection of intellectual property rights—clearing the measure for the President;

Multidistrict Litigation Restoration Act of 2005: H.R. 1038, to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial;

Trademark Dilution Revision Act of 2005: H.R. 683, amended, to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment, by a 2/3 yeas and nay vote of 417 yeas with none voting “nay”, Roll No. 110; and

Providing for the appointment of Robert P. Kogod to the Board of Regents of the Smithsonian Institution: H.J. Res. 20, providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution, by a 2/3 yeas and nay vote of 412 yeas with none voting “nay”, Roll No. 111.

Recess: The House recessed at 3:25 p.m. and reconvened at 6:30 p.m.

Inspector General for the House of Representatives—Appointment: The Chair announced the joint appointment by the Speaker, Majority Leader, and Minority Leader of Mr. Steven A. McNamara of Sterling, Virginia to the position of Inspector General for the House of Representatives for the 109th Congress, effective January 4, 2005.

Senate Message: Message received from the Senate appears on page H2111.

Senate Referrals: S. 289 was referred to the Committee on the Judiciary.

Quorum Calls—Votes: Three yea and nay votes developed during the proceedings today and appear on pages H2126, H2126–27, and H2127. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 11:30 p.m.

Committee Meetings
DEPARTMENT OF LABOR, HHS, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies continued appropriation hearings. Testimony was heard from public witnesses.

DEPARTMENTS OF TRANSPORTATION, TREASURY, AND HUD, THE JUDICIARY, DISTRICT OF COLUMBIA, AND INDEPENDENT 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 IRS. Testimony was heard from Mark W.
Everson, Commissioner, IRS, Department of the Treasury.

**COLLEGE ACCESS**

*Committee on Education and the Workforce:* Held a hearing on College Access: Is Government Part of the Solution, or Part of the Problem? Testimony was heard from public witnesses.

**INTERNATIONAL FINANCIAL SYSTEM**

*Committee on Financial Services:* Held a hearing on the State of the International Financial System. Testimony was heard from John W. Snow, Secretary of the Treasury.

**FEDERAL HEALTH PROGRAMS**

*Committee on Government Reform:* Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing entitled “Federal Health Programs and Those Who Cannot Care for Themselves: What Are Their Rights, and Our Responsibilities?” Testimony was heard from Representative Weldon of Florida; Donald A. Young, M.D., Deputy Assistant Secretary, Planning and Evaluation, Department of Health and Human Services; and public witnesses.

**U.S. CENSUS 2010**

*Committee on Government Reform:* Subcommittee on Federalism and the Census held an oversight hearing entitled “Halfway to the 2010 Census: The Countdown and Components to a Successful Decennial Census.” Testimony was heard from the following officials of the Department of Commerce: Kathleen Cooper, Under Secretary, Economic Affairs, and Charles Louis Kincannon, Director, Bureau of the Census; and public witnesses.

**THRIFT SAVINGS PLAN/REAL ESTATE TRUSTS**

*Committee on Government Reform:* Subcommittee on Federal Workforce and Agency Organization held a hearing on H.R. 1578, Real Estate Investment Thrift Savings Act. Testimony was heard from Representatives Foley and Neal; the following officials of the Federal Retirement Thrift Investment Board: Andrew M. Saul, Chairman; and Gary A. Amelio, Executive Director; and public witnesses.

**FIRST RESPONDER FUNDING**

*Committee on Homeland Security:* Subcommittee on Prevention of Nuclear and Biological Attacks held a hearing entitled “DHS Coordination of Nuclear Detection Efforts, Part 1.” Testimony was heard from public witnesses.

Hearings continue tomorrow.

**U.N. HUMAN RIGHTS COMMISSION**

*Committee on International Relations:* Subcommittee on Africa, Global Human Rights and International Operations held a hearing on the UN Commission on Human Rights: Protector or Accomplice? Testimony was heard from Mark P. Lagon, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State; and public witnesses.

The Subcommittee also held a briefing on this subject. Testimony was heard from Danilo Turk, Assistant Secretary-General, Department of Political Affairs, United Nations.

**USA PATRIOT ACT: INFORMATION SHARING**

*Committee on the Judiciary:* Subcommittee on Crime, Terrorism, and Homeland Security held an oversight hearing on the Implementation of the USA PATRIOT Act: Effect of Sections 203 (b) and (d) on Information Sharing. Testimony was heard from Representative McCaul of Texas; the following officials of the Department of Justice: Maureen Baginski, Executive Assistant Director, Office of Intelligence, FBI; and Barry Sabin, Chief, Counterterrorism Section for the Criminal Division; and a public witness.

**COASTAL OCEAN OBSERVATION SYSTEM INTEGRATION AND IMPLEMENTATION ACT**

*Committee on Resources:* Subcommittee on Fisheries and Oceans held a hearing on H.R. 1489, Coastal Ocean Observation System Integration and Implementation Act of 2005. Testimony was heard from Richard W. Spinrad, Assistant Administrator, National Ocean Service, NOAA, Department of Commerce; Robert Winokur, Technical Director, Oceanographer of the Navy, Department of the Navy; Chris Kearney, Deputy Assistant Secretary, Policy and International Affairs, Department of the Interior; Debra Hernandez, Director, Policy and Program Development, Office of Ocean and Coastal Resource Management, Department of Health and Environmental Control, State of South Carolina; and public witnesses.

**ENERGY POLICY ACT OF 2005**

*Committee on Rules:* Granted by voice vote, a structured rule providing one hour and thirty minutes of
general debate with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20 minutes equally divided and controlled by the chairmen and ranking minority members of each of the following committees. Science, Resources, and Ways and Means. The rule waives all points of order against consideration of the bill.

The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution, and provides that those amendments may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without amendments printed in the report. Testimony was heard from Representative Hall of Texas, Chairman Boehlert, Chairman Pombo, Representatives Calvert, Bartlett, Gilchrest, Johnson of Connecticut, Peterson of Pennsylvania, Castle, Porter, Shays, Wamp, Kirk, Dingell, Markey, Stupak, Capps, Allen, Schakowsky, Davis of Florida, Solis, Inslee, Eddie Bernice Johnson, Udall of Colorado, Carnahan, Jackson-Lee of Texas, Emanuel, Udall of New Mexico, Holt, Van Hollen, Millender-McDonald, Berkley, Bishop of New York, Ford, Slaughter, Olver, and Hastings of Florida.

LONG TERM CARE

Committee on Ways and Means: Subcommittee on Health held a hearing on Long Term Care. Testimony was heard from Douglas Holtz-Eakin, Director, CBO; and public witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, APRIL 20, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Defense, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the National Guard and Reserve Budget, 10 a.m., SD–192.

Subcommittee on Homeland Security, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Homeland Security, 10:30 a.m., SD–124.

Subcommittee on District of Columbia, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the government of the District of Columbia, focusing on the District of Columbia Courts, the Court Services and Offender Supervision Agency, and the Public Defender Service, 10:30 a.m., SD–138.

Committee on Armed Services: Subcommittee on Readiness and Management Support, 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, 2 p.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: to continue hearings to examine proposals to improve the regulation of the Housing Government-Sponsored Enterprises, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Science and Space, to hold hearings to examine International Space Station research benefits, 10 a.m., SR–255.

Committee on Environment and Public Works: to hold hearings to examine the nominations of Gregory B. Jazcko, of the District of Columbia, and Peter B. Lyons, of Virginia, each to be a Member of the Nuclear Regulatory Commission, 9:30 a.m., SD–406.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Education and Early Childhood Development, to hold hearings to examine the Federal role in helping parents of young children, 10 a.m., SD–430.

Committee on the Judiciary: Subcommittee on Terrorism, Technology and Homeland Security, to hold hearings to examine a review of the material support to Terrorism Technology and Homeland Security, to hold hearings to examine the Federal role in helping parents of young children, 10 a.m., SD–430.

Committee on 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, 10 a.m., SR–428A.

Select Committee on Intelligence: closed business meeting to consider certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on the Department of Labor, Health and Human Services, Education, and Related Agencies, on Corporation for National and Community Service (CNCS), 10:15 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 Federal Motor Carriers Safety Administration, 2:30 p.m., 2358 Rayburn.

Subcommittee on Foreign Operations, Export Financing, and Related Programs, on U.S. AID, 10 a.m., 2359 Rayburn.

Subcommittee on Science, The Departments of State, Justice, and Commerce, and Related Agencies, on NASA, 10 a.m., H–140 Capitol.

Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, hearing entitled “How Internet Protocol-Enabled Services Are Changing the Face of Communications: A Look at Video and Data Services,” 10 a.m., 2123 Rayburn.
Committee on Financial Services, hearing entitled “Generations Working Together: Financial Literacy and Social Security Reform,” 10 a.m., 2128 Rayburn.


Subcommittee on Prevention of Nuclear and Biological Attacks, to continue hearings entitled “DHS Coordination of Nuclear Detection Efforts, Part II,” 3 p.m., 210 Cannon.

Committee on House Administration, hearing on Regulation of 527 Organizations, 10, a.m., 1310 Longworth.

Committee on International Relations, Subcommittee on Asia and the Pacific, hearing entitled “Focus on a Changing Japan,” 10:30 a.m., 2172 Rayburn.

Subcommittee on Middle East and Central Asia, hearing on the Middle East and the United Nations, 1:30 p.m., 2200 Rayburn.

Subcommittee on Western Hemisphere, to mark up H.R. 193, Expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, in Havana; followed by a hearing on Gangs and Crime in Latin America, 1:30 p.m., 2172 Rayburn.

Committee on the Judiciary, to mark up the following measures: H.R. 1279, Gang Deterrence and Community Protection Act; H.R. 800, Protection of Lawful Commerce in Arms Act; and H. Res. 210, Supporting the goals of World Intellectual Property Day, and recognizing the importance of intellectual property in the United States and Worldwide, 10 a.m., and to hold an oversight hearing on Industry Competition and Consolidation: The Telecom Marketplace Nine Years After the Telecom Act, 2 p.m., 2141 Rayburn.

Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing entitled “Committee Print Regarding Patent Quality Improvement,” 4:30 p.m., 2141 Rayburn.

Committee on Resources, hearing on H.R. 1595, To implement the recommendations of the Guam War Claims Review Commission, 10 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Environment, Technology, and Standards, to mark up H.R. 1674, United States Tsunami Warning and Education Act, 3 p.m., 2318 Rayburn.

Subcommittee on Space and Aeronautics, hearing on the Future Market for Commercial Space, 9:30 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on Air Traffic Management by Foreign Countries, 10 a.m., 2167 Rayburn.

Subcommittee on Coast Guard and Maritime Transportation, oversight hearing on Deepwater Implementation, 2 p.m., 2167 Rayburn.

Committee on Veterans’ Affairs, Subcommittee on Disability Assistance and Memorial Affairs, oversight hearing on the National Cemetery Administration, 10 a.m., 334 Cannon.

Subcommittee on Economic Opportunity, oversight hearing on the Department of Veterans Affairs’ Vocational Rehabilitation and Employment Program, 2 p.m., 334 Cannon.

Committee on Ways and Means, hearing on an Overview of the Tax-Exempt Sector, 10:30 a.m., 1100 Longworth.
Next Meeting of the SENATE  
9:30 a.m., Wednesday, April 20

Senate Chamber

Program for Wednesday: After the transaction of any routine morning business (not to extend beyond 60 minutes), Senate will continue consideration of H.R. 1268, Emergency Supplemental Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES  
10 a.m., Wednesday, April 20

House Chamber

Program for Wednesday: Consideration of Suspensions:

H.R. 504, Ray Charles Post Office Building Designation Act;
H.R. 1001, Sergeant Byron W. Norwood Post Office Building Designation Act;
H. Res. 184, recognizing a National Week of Hope in commemoration of the 10-year anniversary of the terrorist bombing in Oklahoma City;
H.R. 1072, Judge Emilio Vargas Post Office Building Designation Act;
H. Res. 130, recognizing the contributions of environmental systems and the technicians who install and maintain them to the quality of life of all Americans and supporting the goals and ideals of National Indoor Comfort Week; and
H. Con. Res. 126, expressing the condolences and deepest sympathies of the Congress in the aftermath of the recent school shooting at Red Lake High School in Red Lake, Minnesota.


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