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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 11, 2005.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Daniel P. Gallagher, Pastor, Edon Church of Christ, Edon, Ohio, offered the following prayer:

O Lord, God of heaven and earth, there is no God like You. Your mercy and grace continue to shower down on Your servants, those of this great building who serve this Nation's people, a Nation started not by accident but by Your providence and watch care.

I ask of You, Lord, to help guide these men and women to make decisions that will make this country better and stronger, not just in the physical sense but in the spiritual as well. Help these leaders to keep their eyes focused on Your desires to make this country what You intended her to be when You first brought people to its shores to be a ''light on a hill'' for all the world to see. But, Father, may the world not see the might of this country but the Almighty, who is our Watchman. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. PRICE of Georgia 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.

A SPECIAL TRIBUTE TO DANIEL PATRICK GALLAGHER ON THE OCCASION OF HIS SERVICE AS GUEST CHAPLAIN TO THE UNITED STATES HOUSE OF REPRESENTATIVES

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

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a truly wonderful friend of the Fifth Congressional District of Ohio. Daniel P. Gallagher is currently the minister at Edon Church of Christ in Edon, Ohio. Today the House was honored to open our legislative session by the inspirational words of Daniel as our guest chaplain.

To his soldiers at Valley Forge, our Nation's Founding Father George Washington proclaimed, ''To the distinguished character of patriot, it should be our highest glory to add the more distinguished character of Christian.'' Today, before our House could again open and continue to work the will of the people, we paused, and we paused, as we have each morning since the Continental Congress, to give thanks and ask for strength.

We have had a chaplain since 1789, and as Guest Chaplain, Daniel Gallagher continues the great tradition by offering his leadership and guidance to this institution.

Through Reverend Gallagher's opening prayer today, the Village of Edon has extended its arms and offered their prayers to those elected to serve them.

Williams County, Ohio is proud to claim the Village of Edon and its nearly one thousand citizens. The county borders both the States of Michigan and Indiana. This wonderful area of Ohio produces great crops for consumption, machines for production and the toys which deliver upon us the joyful sounds of children laughing. Williams County and the Village of Edon provide the fruit of life to our Nation and today it has sent us its shepherd.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Daniel P. Gallagher as we give thanks for his inspiring words. On behalf of the people of the Fifth District of Ohio, I am proud to recognize his faith and service. We wish Daniel and his family the best as we salute one of Ohio's finest citizens.

NEW FOCUS TO BRING OUR TROOPS HOME

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

Mr. KUCINICH. Mr. Speaker, congressional Democrats are so sure that we will win back the Congress in 2006 on the Social Security issue that many have stopped challenging the administration on the war on Iraq: Let us take the war off the table as an issue and focus on other issues.

It is not a new strategy. It was pursued by congressional Democrats in 2002 when our leadership supported the war in Iraq. We lost. It was furthered in 2004 when our nominee supported the war. We lost. We lost a chance to regain the Congress and take back the White House, and the American people lost a chance for a new start. Why? Because we did not challenge the central vulnerability of the administration that led this country into war, into a

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war based on lies and misrepresentations.

Democrats' failure to challenge the war represents a failure of the two-party system. For the Democrats to become politically viable in 2006 and 2008, we must take on this administration on the War on Iraq, not giving them more money to keep the war going. We must move to cut off funds, to bring our troops home, to get out of Iraq, to make those who lied to us to get us into war accountable, to hold them accountable in the courts.

THEY WILL NOT JUST DIE ANYWAY

(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, some time this summer, the House will vote on a bill to allow Federal funds to be used to destroy embryos stored at IVF clinics in order to harvest their stem cells. Those voting for this legislation will say that these are leftover embryos. They will say they are going to be killed anyway.

Well, they are wrong. Only 2.8 percent of embryos in IVF clinics have been set aside for research; the rest are destined for implantation or adoption.

But, we do not need to kill these embryos to do stem cell research. Stem cells can be taken from many adult sources: fatty tissue, spleen, liver, sinus, bone marrow, just to name a few. These are called adult stem cells.

Adult stem cell research is currently treating 58 diseases successfully. Embryonic stem cell research is treating none: 58, adult stem cell; zero, embryonic stem cell. If there were no ethical alternative, which there is, if we applied ''they are going to die anyway'' rationale to other areas of research, it would justify such things as harvesting organs from death-row inmates and from terminally ill patients.

We should support adult stem cell research, not embryonic.

UNITED AIRLINES DEFAULT REMINDS US OF NEED TO PRESERVE SOCIAL SECURITY

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

Mr. EMANUEL. Mr. Speaker, today we are given a stark reminder of what is at stake in this debate about Social Security.

Yesterday, United Airlines unloaded their pension plan for their 100,000-plus employees onto the taxpayer, resulting in benefits being cut up to 40 percent. Now, go ask those United Airlines' employees what they think of Social Security as part of their retirement.

Earlier this year, US Airways unloaded their pension plan on the taxpayers, cutting benefits up to 50 percent. Go ask those U.S. Airways' employees what they think of Social Security.

It may come as a shock to some, but the American people like the security that comes with Social Security. That is what this debate is about. For United Airlines' employees, U.S. Airways' employees, the steel industry before them and probably the auto industry coming next, Social Security is the linchpin to their retirement security. They reject the idea of doing to Social Security what just happened to their private plan, where they put their personal and employer-based savings. It is now on the roulette table, and benefits are being cut by 40 percent.

The fact is, that is what this debate is, for two-thirds of seniors and 40 percent of widows rely on Social Security as their only retirement. Mr. Speaker, this debate is more than about the solvency of Social Security; it is about retirement security for every American.

FILIBUSTER OF JUDICIAL NOMINEES ILL-SERVES AMERICA

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

Mr. CHABOT. Mr. Speaker, blocking confirmation of judges by a minority in the Senate ill-serves the American people.

Filibustering judges is not part of the Constitution; it is not even part of the old Senate rules. The Constitution is clear on what is required of the Senate and its responsibility under the Advice and Consent Clause as it applies to judicial nominations: Majority support. Never has a nominee with clear majority support been denied an up-or-down vote.

Four vacancies continue to exist in the Sixth Circuit Court of Appeals where my district of Cincinnati is contained. One of those vacancies could have been filled by Judge Richard Griffin whose nomination has been pending for 145 days, 145 days. Judge Griffin has the support of his colleagues and individuals such as former President Gerald Ford. He has been rated by the American Bar Association as ''well qualified,'' a rating that has historically secured a nominee's confirmation, but not anymore.

If the Senate wants to amend the Constitution, it should do so as provided by our Founding Fathers, not by the threats of a minority to shut the place down if they do not get their way.

TRIBUTE TO MIGUEL CONTRERAS

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to pay tribute to Miguel Contreras, who died unexpectedly on Friday, May 6, 2005.

As executive-secretary treasurer of the Los Angeles County Federation of Labor and a vice president of the California Labor Federation, Miguel was a staunch champion for working families in Los Angeles and throughout our Nation. His leadership reenergized our Nation's labor movement.

Miguel began his life working in the fields of southern California alongside his immigrant parents. After meeting Cesar Chavez, he became active in the United Farm Workers Union.

Under Miguel's leadership, union membership in the Los Angeles County area grew by more than 125,000, creating a powerful voice for working families. Miguel led successful organizing campaigns for janitors and bus drivers, among others.

In a lifetime dedicated to service of working men and women, Miguel Contreras touched many lives, including my own. It was Miguel who encouraged and supported my run for executive-secretary treasurer of the Orange County Federation of Labor. I became the first Latina to head a federation, so I jokingly described myself as Miguel Contreras in high heels. I want to thank him for being a great role model and teaching me many of life's invaluable lessons.

Miguel was not only a friend and a mentor to me, but more importantly, he was a remarkable labor leader, activist, community spokesman, power broker, husband and father, and he will be sorely missed.

PROMOTING FREEDOM AND DEMOCRACY IN EUROPE

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

Mr. SHIMKUS. Mr. Speaker, I would like to say welcome back, Mr. President, from your historic trip to Europe.

As a former military officer and a high school history teacher, I thank and appreciate the Soviet Union and the Russian people for their sacrifice in helping to win World War II.

Some would justifiably argue that the Russians carried the lion's burden in Europe, both in sacrifice and materiel. However, as much as we thank the Russian people for their sacrifice, we must also remember the five decades of totalitarian regime that ruled over five of the Eastern European Block countries, those that we call the former captive nations. Loss of liberty, freedom, rule of law, executions, deportations and Russification was imposed on many countries. By the President book-ending his trip with a visit to Latvia and Georgia, we should know that old animosities can be put aside and a new Europe can emerge, one that promotes freedom and democracy and the rule of law.

NEW AXIS OF EVIL

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

Mr. CROWLEY. Mr. Speaker, we all know about the axis of evil. Iran and North Korea's pursuit of nuclear weapons is frightening, and we need to do everything we can do to stop it.

But now there is a new axis of evil, apparently, and it starts right here in Washington. The axis of evil for this administration is bull's-eye, square one, the United States Senate and the 45 members of its minority. Because while not yet a nuclear State, that is exactly what the Republicans want to make it by eliminating the filibuster rule.

Not only does the Republican Party demonstrate yet again that when they do not get their way, they do not believe in playing fair, they want to change the rules. When they cannot change the rules, their leadership bullies judges and pushes legislation that has no business being in the United States Congress and is left best to the States. When that does not work, they eliminate the voice of the minority and appoint, for lifetime appointments, to the Federal and supreme Court.

Let us remember that Democrats in the United States Senate combined represent more Americans than do their Republican colleagues.

We have a proud history of an independent judiciary and checks and balances. That is something that Iran and North Korea cannot say. If Bill Frist gets his way, it is something we will not be able to say, either.

ISRAEL INDEPENDENCE DAY

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

Ms. ROS-LEHTINEN. Mr. Speaker, today we mark Israel Independence Day.

Israel has stood as a symbol of perseverance and courage for the entire world from its birth in 1948. It has struggled constantly to maintain its independence and to ensure its survival amidst military attacks from hostile neighbors and prolonged terrorist campaigns. Even while at war, Israel's democracy and its vibrant, diverse and free society has remained strong. Its doors have been opened to victims of persecution and intolerance around the world. It has been said that the strength of a nation is determined by the caliber of its people, and there is perhaps no better example of this than the State of Israel and the Israeli people.

Today, as the State of Israel marks its 57th anniversary, we reiterate our commitment to its security and its stability.

I extend my best wishes and congratulations to the Israeli people and to the Jewish Nation.

REPUBLICAN CHANGE OF FILIBUSTER RULE IS ABUSE OF POWER

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

Mr. PALLONE. Mr. Speaker, Republicans have become so arrogant with their absolute power here in Washington that whenever they do not get their way, they try to change the rules of the game. In January, House Republicans ignored protocol and weakened the ethics rules in order to protect one of their leaders, and now Senate Republicans are preparing to change the filibuster rule which has been in place beyond anyone's memory.

Republicans say Senate Democrats are preventing President Bush's judicial appointments from taking the bench, but let us set the record straight.

During President Bush's first 4 years in office, the Senate confirmed 204 of his 214 nominees; that is a 95 percent confirmation rate.

□ 1015

The Senate has been so productive in approving Bush's nominees that the Federal court vacancy rate is at its lowest point in 15 years.

Mr. Speaker, the filibuster has been used by Democrats and Republicans for 200 years to protect the rights of the minority party. After 2 centuries, it would be a mistake and an extreme abuse of power by Senate Republicans to change the rules now and eliminate this important check and balance.

EMPLOYEE PENSION PRESERVATION AND TAXPAYER PROTECTION ACT

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

Mr. PRICE of Georgia. Mr. Speaker, did you hear the news this morning? The U.S. Bankruptcy Court allowed United Airlines to default, to end four pension plans. They will be transferred to the Federal Pension Benefit Guarantee Corporation and ultimately the American taxpayer. Unless Congress acts, other major airlines will follow the same path and end their pension plans, the cost of which will ultimately be borne by the taxpayers. We need to act now. Hard-working taxpayers are already on the line for nearly $10 billion in unfunded pension liabilities from just two airlines that are in bankruptcy.

There is a solution: H.R. 2106. This bill limits taxpayer liability and allows responsible companies to manage their pension liabilities. It makes certain that airline carriers meet their current obligations with no subsidy from the Federal Government, the taxpayers.

Mr. Speaker, when major airlines file for bankruptcy, taxpayers lose, employees are out of jobs, retirements are jeopardized, and the economy suffers.

We should act now on behalf of the American taxpayer. More bankruptcy headlines are coming unless we move responsibly, and I ask my colleagues to join me in this important and vital matter to save jobs, retirements, and taxpayer money. Support H.R. 2106.

PULITZER PRIZE WINNERS FROM OHIO

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

Mr. BROWN of Ohio. Mr. Speaker, I stand today to announce and commend the 2005 winners of the Pulitzer Prize and take particular notice that four of this year's winners are graduates of Ohio's public State universities.

Walter Bogdanich, with the New York Times, won the Pulitzer for National Reporting, getting a master's degree in journalism from Ohio State.

Julia Keller, with the Chicago Tribune, won the Pulitzer for Feature Writing after earning a doctoral degree in English from Ohio State.

Nick Anderson, with the Louisville Courier-Journal, won the Pulitzer for Editorial Cartooning after graduating from Ohio State with a degree in political science.

And of course I am most proud of my wife, Connie Schultz, of the Plain Dealer in Cleveland who won the Pulitzer for Commentary. She graduated from Kent State with a degree in journalism and was editor of the Daily Kent Stater.

The Pulitzer defines excellence in journalism, and it is personally gratifying to me that Ohio's public universities helped these talented individuals achieve this extraordinary honor.

DR. CALVIN R. FREMLING

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

Mr. GUTKNECHT. Mr. Speaker, the Mississippi River is called the Father of Waters.

I rise today to honor the work of Dr. Calvin R. Fremling of Winona, Minnesota. For nearly 50 years, Dr. Fremling has been a student of the Mississippi River. He has shared his passion as a teacher, researcher, historian, and photographer.

He received his bachelor's degree in biology and physical science from St. Cloud State University in 1951 and his Ph.D. in zoology from Iowa State University in 1959. After brief service as a teacher in Motley High School and with the U.S. Army's Ecological Research Unit, he returned to SCSU to earn his master's degree in biology.

Dr. Fremling then joined the faculty at Winona State University where he taught and conducted research for 32 years until his retirement in 1991. He just released his book, ''Immortal River: The Upper Mississippi River in Ancient and Modern Times.'' The book is a record of lifetime of work dedicated to protecting the ecology of the Mississippi River.

I thank Dr. Fremling for his work with one of our national treasures and

for his commitment to our young people.

SCHOOL BUS SAFETY AND THE SECURE ACT OF 2005

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

Mr. CLEAVER. Mr. Speaker, I rise to offer my condolences to the victims and their families of Tuesday's school bus accident in Liberty, Missouri, just north of my district in Kansas City. That tragic accident killed two adults and injured 23 children, some critically. The tragic accident of which I speak, Mr. Speaker, has generated a great deal of trauma in our community, understandably, because these injuries could easily have been prevented had the school bus in question been equipped with safety belts. Over 23 million children ride school buses every day, and almost none of them are equipped with seatbelts. While no one anticipates a tragedy like that which occurred in Liberty, we do owe it to our children to do all we can to ensure their safety while traveling to and from school.

Yesterday, the gentleman from California (Mr. BACA), my good friend and colleague, introduced the SECURE Act to equip school buses with safety belts. By supporting this common sense measure, we can help ensure that our children's ride to school and their safety is assured. I have cosponsored the SECURE Act, and I urge all Members to do the same.

ECONOMIC GROWTH

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

Ms. FOXX. Mr. Speaker, I rise today to share good news with the American people.

Last week, the Bureau of Labor Statistics announced that 274,000 new jobs were created in April. That means the economy has created nearly 3.5 million jobs since May 2003. We have seen steady job gains for each of the last 23 months, and more Americans are working than ever before.

Another indicator which shows that we are on the road to recovery is home sales. A recent report by the Commerce Department indicates sales of new homes grew by 12.2 percent in March to the highest level in the history of the Nation's housing market.

Clearly, the economy's growth is a direct result of the pro-growth agenda of the President and this Republican Congress.

By encouraging fiscal responsibility in the budget and passing pro-growth bills such as the Death Tax Repeal and the Bankruptcy Bill, Republican Members continue to show their commitment to America's economy.

However, there is still work to do to continue to grow the economy and get more Americans working. I look forward to continue working with the President to find ways to lower the prices we pay at the pump and will continue to urge my colleagues in the Senate to pass the energy bill that would put more than 500,000 Americans to work.

WAKE-UP CALL FOR AMERICA

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is a simple pronouncement this morning. This is a wake-up call for America. In today's headlines we have: ''United gets okay to drop pension funds.'' Earned pension funds, earned benefits now on the chopping block of America.

I have great concern for America's airlines, and I will work with them as we have worked in the past after 9/11 to shore them up. But is it not a shame that America cannot invest in its pension fund and believe when it is time for retirement that fund will be there?

Wake up America. Social Security is now falling to the same axe. This President wants to cut your benefits, the major social safety net of Americans. An invested process is now under siege.

We think it is a divided question. It is not a divided question. It is a question for the middle class. It is a question for working Americans. It is a question that Democrats have stood fast. We will not see Social Security denied or destroyed. And wake up America, because the pensions of America are now under the vulnerable chopping block that anybody who needs a dime or a dollar will go into your pension fund, whether you are a private corporation or the public sector. Wake up America.

SOCIAL SECURITY REFORM

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

Mr. PENCE. Mr. Speaker, with the specter of fiscal collapse facing our children and grandchildren's public retirement, Social Security reform is an idea whose time has come. And President Bush, never one to flinch from a good fight, is to be commended for taking it on.

Social Security reform means keeping its promise in tact for seniors and all who choose to remain in the system. But Social Security reform also means offering a better deal to younger Americans in the form of voluntary personal accounts.

And we can do it all, Mr. Speaker, without raising taxes on working families, small businesses and family farms. So let us get on with it. Let the House lead on Social Security reform. If the House goes first, we will produce a reform that is consistent with the President's vision for a 21st century public retirement system.

SENATE FILIBUSTER

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, the Republican Congress and Republican President are overcome with power, so much so that they want to fundamentally change our Nation's government into one where a single political party in power holds total control.

And how do the Republicans want to lay claim to absolute power? In order to break down the separation of powers and ram through their appointees to the judicial branch, the President and the Republican leadership want to eliminate a 200-year-old American rule that permits the Senate the right to extend debate in the confirmation of Presidential nominees.

Mr. Speaker, the role of the Senate in the confirmation of Presidential nominees is a central element of our democracy. The confirmation process underscores our Founding Fathers' commitment to the separation of powers and their abhorrence of simple majority rule. It provides for essential checks and balances to ensure we remain a Nation ruled by laws and not just by men.

We do not need a monarchy. We need to preserve our Republic.

CENTER FOR RESPONSIBILITY AND ETHICS IN WASHINGTON

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

Mr. MCHENRY. Mr. Speaker, there is a lot of talk by groups in Washington, D.C. about ethics, making sure that Members of Congress hold to the highest standards of ethical conduct.

It is good stuff. But one of these groups concerned about ethics, the Center for Responsibility and Ethics in Washington, is not the nonpartisan entity we may have thought. The Center for Responsibility and Ethics in Washington, CREW, Mr. Speaker, is a partisan group with a partisan political agenda.

According to The Wall Street Journal, board members of the group, including a former Clinton White House pollster, have contributed over $340,000 to left-wing causes in the past 4 years.

The group's director has said, ''Since I started, the main thing I want to do was to go after Tom DeLay. DeLay is my top target.''

This group is concerned about ethics, Mr. Speaker? No, I do not think so. It is about partisan politics. And they only have one agenda, and that is to file complaints against Republicans.

Mr. Speaker, as someone new to Washington, I am not used to this Washington, D.C. parlor game of dirty tricks. This is about politics, Mr. Speaker, not about ethics.

SOCIAL SECURITY CRISIS

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

Mr. CANTOR. Mr. Speaker, I rise today to discuss the crisis in Social Security. The current system in place is based on demographics in America that are reflective of 1935, not 2005.

Currently, 45 percent of senior citizens rely on Social Security as their sole source of income. We, in this House, will not let them down. We also cannot lose sight of our goal, though, to preserve Social Security for our children and our grandchildren.

Our goal in this Congress, as leaders, is to help real people, not engage in political posturing. It is our duty as public servants to ensure a strong and solvent program. For today's seniors and those nearing retirement, the system should not change. But we owe those younger workers across America and our future generations more than just a stopgap fix. We owe them the best system that we can provide to suit their needs in their golden years.

SENATE FILIBUSTER

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

Mr. LEWIS of Georgia. Mr. Speaker, what does it profit a man to gain the whole world and lose his soul? Mr. Speaker, what does it profit one political party to rule this government with an iron fist and destroy the foundation our Founding Fathers built? This is the central question we are asking the Senate Republican conference today.

It is unreal. It is unbelievable that Senators sworn to uphold the Constitution would end filibusters on judicial nominations. This is not only a grab by one party to dominate every branch of American Government. It is a choke hold on the voices of millions of American voters. Where is our honor? Where is our honesty? Where is our respect for the American people who place their trust in all of us, not one political party?

Mr. Speaker, I thought the principles of American democracy stood for something. I hope the Senate Republican leadership will not fall for this miscarriage of justice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion 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.

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

□ 1030

CORRECTING THE ENROLLMENT OF H.R. 1268

Mr. LEWIS of California. Mr. Speaker, I move to suspend the rules and concur in the Senate Concurrent Resolution (S. Con. Res. 31) to correct the enrollment of H.R. 1268.

The Clerk read as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

''(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.''.

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

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution instructs the enrolling clerk to correct a provision in division B of the Emergency Supplemental Appropriations conference report that was drafted incorrectly.

The conference agreement included a provision to make available an additional pool of permanent resident visas only for nurses and physical therapists.

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

Mr. OBEY. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, ordinarily, on a piece of legislation like this, there would be virtually no debate and it would be passed routinely, but I think, for the good of the House, we ought to review exactly what we are doing here and why we are here doing it.

As you know, last month, the supplemental appropriations for Iraq and other purposes was passed by the House and then passed by the Senate. On the Senate floor, the Senate saw fit to adopt an amendment, the purpose of which was to increase the number of visas for nurses by 50,000. That is what it supposedly did.

Now, after that was adopted on the Senate floor, the bill was conferenced. It passed this House some time ago, and the conference passed the Senate yesterday.

Today, we are here with this concurrent resolution, and what does this concurrent resolution do? It raises the number of visas for nursing by 50,000. Why do we have to chew the same cud twice? Why are we here doing today what we thought had been done much earlier?

I think it is very simple. We are here because the normal processes, the normal democratic processes of the House and the Senate have not been followed. We are here because, in an attempt to solve a debate within the Republican Caucus, extraneous material was added to the Iraqi supplemental which had no business being on that bill in the first place.

What essentially happened is that after this amendment was adopted by the other body, the leadership of the majority party then essentially took away from the Committee on Appropriations the ability to deal with all of these immigration-related issues.

Now, who dealt with them? I am, frankly, not sure, but I think it was Senator FRIST's staff, and I think it was the leadership staff in this House. But we are not sure because it all happened behind some closed door. I am not sure what room it was in. But it happened somewhere, some place in River City.

So now, we are here correcting that mistake. Why am I making a Federal case out of something like this? Well, it is very simple. The history of Congress has been written for decades, and each decade some scholar has noted that Congress works principally in committee. Woodrow Wilson wrote his great piece on the organization of Congress, making the point that Congress really ran in committees. We are here today because that committee system has been corrupted.

What has happened is that we have ignored the fact that the reason for the committee system in the first place has been so that the House could use the specialized knowledge that people develop on each and every committee and put that knowledge to work in the consideration of every bill that goes through this House. Under normal processes, the Committee on Appropriations would have been dealing with all matters that were attached in the appropriations bill.

Under normal processes, Senator HUTCHISON should have been allowed to have access to the language before it was arbitrarily attached to this bill. But when people tried to find out what was happening on immigration and other issues, they were told it is being taken care of. It is being taken care of.

Well, it certainly was.

Mr. Speaker, I simply take this time to make the point that there is a purpose for creating committees. There is a purpose for vetting these issues through the committee of jurisdiction because, through the years, committees learn their business. But when the normal business is side-tracked, when everyone except the powers on high are excluded from the rooms where decisions are being made, then you are going to have mistakes being made because nobody is smart enough to know everything about everything, despite what some people in the leadership in

both the Senate and House seem to feel. Occasionally, the omnipotent can make a mistake. And if the committee process is followed, our chances of making those mistakes would be minimized.

So all I want to say, Mr. Speaker, is that I am sure mistakes like this will occur in the future. And this is no great Earth-shaking matter, but I felt it appropriate to use this opportunity to point out that the House is continuing to day-by-day, as far as I am concerned, corrupt the processes of the House by having the House evolve into a system in which a few staff people somewhere on Capitol Hill make all of the decisions, and then the other committees are told, Just do what you are told. Get rid of it. Move it on. After all, we have got to run the trains on time. It does not matter what is in them, but we have got to run the trains on time.

So that is why we are here today, Mr. Speaker. I hope we could all take a lesson from this.

Mr. LEWIS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. Mr. Speaker, I thank the chairman of the Committee on Appropriations for yielding me time.

Mr. Speaker, today I rise in opposition to S. Con. Res. 31. In the attempt to correct an error in drafting, this concurrent resolution would allow for 50,000 new green cards reserved for nurses and physical therapists. Green card status is permanent resident status. Accompanying spouses and minors also will be given permanent resident status and will not be counted against the 50,000 cap.

If this concurrent resolution is passed, it will give 50,000 nursing and physical therapist jobs away to foreign workers and will be giving even more jobs away to accompanying spouses, as those with permanent resident status are granted work permits.

The argument that the current drafting of the supplemental ''recaptures unused employment-based visas'' from the past 2 years is false, since any employment-based visas that are not used are given up to meet the family-based visa quota for that year.

A recent study by the Center for Immigration Studies found that ''there is little evidence that immigrants take only jobs Americans don't want.''

Another recent study conducted by the Center for Labor Market Studies at Northeastern University says that ''there is little empirical support for the notion that new immigrants are taking large numbers of jobs that American workers refuse to accept. There is direct competition between new immigrants and native-born workers for most of these jobs.''

At a hearing I held last week as the Chairman of the Subcommittee on Immigration, Border Security and Claims, the minority witness, Dr. Holzer, testified that, due to cost containment in certain fields, ''10 to 15 percent jobs in the United States potentially on the high end could face competition from engineers and computer programmers and others in India and China and other parts of the world.''

If you have any nursing or physical therapy students in your district, consider that those students who will be graduating this spring will have to compete with 50,000 foreign nurses and physical therapists who will likely work for lower wages. We will have to answer to our constituent nurses and physical therapists who cannot find a job due to the influx of foreign workers in this field.

Also, if we pass this concurrent resolution for nurses and physical therapists, who will be the next workers that we will displace? Will we add 50,000 more new visas to each supplemental, driving more and more domestic American-born workers out of a job?

Today, I ask my colleagues to support their constituents, American workers who are in the fields of nursing and physical therapy, and vote against this concurrent resolution.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we now find ourselves in an even more interesting situation. The gentleman from Indiana (Mr. HOSTETTLER) has just raised some substantive concerns about the bill, and those ought to be responded to.

The problem is that, because of the way this has been handled, because you had a matter that was not under the jurisdiction of the Committee on Appropriations essentially dumped into an appropriations bill, this issue is not going to be dealt with on the substantive level.

The issues raised by the gentleman might be very legitimate, but they should be debated in the forum in which they are supposed to be debated, and that is the Committee on the Judiciary. Instead, we have the Committee on Appropriations which is supposed to focus on budgets here dealing with a legal issue about which our committee has no particular expertise. So, once again, the process by which the bill is being considered today changes the House from being what it is supposed to be, which is the greatest deliberative body in the world, to a poor imitation of Daffy Duck.

I again would urge that we give greater consideration to normal order around here if we do not want to rapidly descend into being the laughingstock of the country.

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since this change is merely a technical item in nature, I urge swift adoption of this resolution so we can expedite enrollment of the bill and get it to the President for his signature today.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LEWIS) that the House suspend the rules and concur in the Senate Concurrent Resolution, S. Con. Res. 31.

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

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 268 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 268

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment 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, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be

considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1045

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

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

Mr. Speaker, this is a structured rule providing for consideration of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. The rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

It waives all points of order against consideration of the bill. It provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary, and now printed in the bill, shall be considered as an original bill for the purpose of amendment, and it makes in order only those amendments printed in the Committee on Rules report accompanying this resolution.

It provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, and 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 and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

It waives all points of order against the amendment printed in the report, and it provides one motion to recommit, with or without instructions.

Mr. Speaker, it is time for Congress to get tough on gang activity. If we can get tough on drugs and if we can get tough on identity theft, terrorism, child abduction, we can get tough on gangs by creating the tools to put gang members behind bars and get them off the streets.

Gang activity is a real problem, a continuously growing problem. All cities with a population of more than 250,000 people have reported gang activity. Best estimates indicate that there are at least 750,000 gang members in the United States. They represent the ills of our society with links to drug trade, human trafficking, identity theft, assault and murder. Gang members continue to break our laws, reject rehabilitation efforts, and they are branching out beyond our cities into suburban and, yes, even rural, communities.

Mr. Speaker, we cannot solve our problems by simply throwing around money, nor can we simply categorize gang activity as isolated incidents. We cannot eliminate gangs by prosecuting incident by incident. We need to enforce our laws in language gang members can understand: you do the crime; you do the time.

With the support of the Fraternal Order of Police, the National Sheriffs' Association, the National Association of Police Officers and many other, more specialized, law enforcement organizations, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005, will make the necessary changes to prosecute gang criminals.

The Gang Deterrence and Community Protection Act designates high-intensity gang areas, and it authorizes funds to combat their illegal activity for special State and Federal enforcement task forces. It authorizes $20 million per year over 5 years to help States hire prosecutors, purchase technology, purchase equipment, and train law enforcement.

Most importantly, it increases penalties to deter violent gang crimes such as murder, rape, kidnapping, and assault. The penalties include death or life imprisonment for murder, 30 years for kidnapping or rape, and 20 years for assault. In addition, this legislation includes juvenile justice reform to ensure that adult crimes, with adult motives, are prosecuted with adult penalties.

The Gang Deterrence and Community Protection Act would give the Attorney General discretion on whether or not to try a juvenile in Federal court as an adult if they are 16 or 17 years old. Mr. Speaker, let me be clear, this legislation does not and will not apply adult standards to anyone younger than 16.

According to the Department of Justice ''Homicide Trends Report,'' between 1976 and 2002 one out of every three murders were committed by a juvenile for gang-related reasons. That means 16- and 17-year-olds are making adult, criminal decisions that equal tragedy for our neighbors and our friends.

More than half the States have enacted laws that mandate the prosecution of juveniles as adults for certain violent crimes, most notably murder. My own State of Georgia has laws that give prosecutors discretion on whether to treat juveniles as adults involving violent and repeat offenses.

Children by the legal definition making adult criminal decisions affect everyone. We need to pass strong anti-gang laws to help prevent troubled teenagers from becoming violent gang members.

As gangs spread and grow, we are seeing more drug activity. These are not simply high schoolers caught with marijuana. We are seeing gangs produce and trade dangerous drugs such as methamphetamine and cocaine. For example, in February, the Atlanta police, United States Drug Enforcement, the MCS Drug Task Force and other law enforcement agencies discovered Georgia's first ''superlab'' in my district, in Smyrna, Georgia, the 11th. With 39 pounds of meth crystal and 250 gallons of the drug in liquid form, one mistake could have destroyed an entire neighborhood.

By strengthening laws against gangs, we are helping fight the supply side of our war against drugs. Gangs are not just a city threat when they jeopardize suburban neighborhoods.

Mr. Speaker, gang activity is as important to the war on crime today as the battles against organized crime in the 1960s and 1970s. This legislation goes beyond national gangs like the Bloods and the Crips and would actually make progress in breaking down membership before these smaller gangs expand into a national nightmare.

Like our war against terrorism, our law enforcement on the State, local, and national levels need to communicate, to share intelligence, and to share resources. We need stronger sentencing to deter crime, and we need to identify potential hot spots before they become major problems.

With passage of the rule, and the underlying bill, we will have the power to take back our communities.

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

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

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

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman from Georgia (Mr. GINGREY), my colleague, for yielding me the customary 30 minutes.

Mr. Speaker, let me begin by saying that every single Member of this House is concerned about gang violence in our communities and throughout our country, and every single Member of this House is dedicated to trying to make our communities and our Nation safer. However, some of us want to pass not a press release but tough legislation that will indeed make our communities safer.

So, Mr. Speaker, I rise today in strong opposition to H.R. 1279, the so-called Gang Deterrence and Community Protection Act. It is bad policy wrapped in a bad bill that will simply not do the job the sponsors claim it will do.

Do not let the title of the bill fool Members. It has nothing to do with deterrence or community protection. This bill does nothing to address the causes of gang activity. Instead, its primary purposes include unjustifiable punishment and ineffective enforcement of the law.

The bill unjustifiably expands death penalty provisions, removes judicial discretion over transferring juveniles to the adult court system, and imposes ineffective mandatory minimum sentencing.

Mr. Speaker, Time magazine focused on the spike in gang activity in Los Angeles in the September 3, 2001, edition. In that story, Father Greg Boyle, a Catholic priest who worked in a

gang-infested area of East Los Angeles, said that California's anti-gang strategy, which has been copied across the country, ''is bankrupt. You have the three strikes law and jail and so on, but you can't terrify a kid into being hopeful about his future.''

The following quote is even more telling: ''We don't need new laws. We have a penal code a foot thick. You can't just work gangs with police suppression. You need prevention and intervention programs, too.'' Mr. Speaker, that statement was not made by a social worker or community activist. No, Mr. Speaker, it came from Sergeant Wes McBride, founder of the California Gang Investigators Association and a 28-year veteran of anti-gang policing.

After reading this legislation, it is clear to me that this bill will do nothing to deter gang activity and, instead, will sentence American youth to lives of crime and violence instead of proactively intervening in our communities to prevent our children and our youngsters from joining gangs in the first place.

This legislation contains several provisions that unjustifiably expand the Federal death penalty. Despite numerous studies that have documented both the exposure of innocent individuals to the death penalty system and its discriminatory nature, the proponents of this bill want to make this already-flawed system worse.

Mr. Speaker, let me say this clearly. I am opposed to the death penalty. I do not believe the death penalty deters future crimes. It has been proven that the death penalty unfairly targets minorities. It has also been proven that innocent people have been sent to death row and have been put to death. Inclusion of the death penalty in this bill is wrong and should be stripped out.

Since 1973, 119 innocent people have been released from Death Row. A study performed by the Criminal Justice Reform Education Fund reported that over two-thirds of all capital convictions and sentences between 1973 and 1995 were reversed because of serious error during trial or sentencing. How can we expand the death penalty system, especially to include juveniles, when it is proven to be faulty, discriminatory, and not an effective deterrent to violent behavior?

Let me remind my colleagues that President Bush signed the Justice for All Act into law on October 30, 2004. This law, which was approved overwhelmingly by this body, improved the fallibility of the death penalty system by making DNA technology available to our criminal justice system in order to improve its ability to exonerate the innocent, as well as identify and convict the guilty. However, the important provisions in the Justice For All Act that would improve the fallibility of the death penalty system are not even being funded. As if that were not bad enough, the bill before us today would actually create new death penalty provisions.

In effect, Mr. Speaker, with this bill, we are adding more death penalty cases to an already-broken system that is desperately in need of repair. By not funding the protections provided under the Justice for All Act and by expanding the death penalty to new cases, this bill makes the death penalty system worse, not better.

Another provision that I strongly disagree with is the transferring of juveniles to the adult court system. Research performed by the Department of Justice has shown that youths tried as adults are more likely to commit a greater number of crimes upon release and that these crimes will be violent. Youths sent to prison with adults end up victims of rape, assault and become high repeat offenders. When these prisoners are released and attempt to reenter society, what are their options? It is most likely they will pick up where they left off and contribute once again to the cycle of gangs and violence.

Moving a youth into the adult court system and prison system will not reduce the amount of youth crime and gang activity. If anything, it will make it worse.

□ 1100

Another flawed aspect of H.R. 1279 is its emphasis on mandatory minimum sentencing. Mandatory minimum sentencing will not prevent youths from joining gang or reduce violent crime among youths. Mandatory minimums were originally created to decrease the disparity in sentencing of like offenders. However, the Judicial Conference of the United States and the U.S. Sentencing Commission has found mandatory minimums ''require sentencing courts to impose the same sentence on offenders when sound policy and common sense call for reasonable differences in punishment.'' In other words, judges are prevented from assessing what type of punishment fits the crime.

Removing sentencing power from judges and shifting discretion to prosecutors will not prevent any youth from joining a gang, committing his first crime or becoming a repeat offender. In fact, this is exactly what the U.S. Supreme Court concluded in January when it ruled to allow Federal judges to deviate from sentencing guidelines. I submit, Mr. Speaker, that this bill's host of harsh mandatory sentences is directly in defiance of the Supreme Court ruling.

Mr. Speaker, we know that intervention programs work in the majority of cases. For the most violent and dangerous individuals, we already have laws on the books that address these actions. But we have a real chance through prevention and intervention programs to make a difference in the lives of these young people. Instead of expanding death penalty provisions and trying juveniles as adults, we need to address the problem of youth crime and violence through early intervention and treatment methods. Programs like Head Start and the Job Corps have proven to be an effective means of deterring crime.

Studies of Head Start demonstrate that $3 is saved for every $1 spent on the program by reducing the future cost of crime, remedial education and welfare. This is clearly more cost effective than spending $9 billion over the next 10 years for prison bed construction and inmate upkeep, which happens to be the cost impact of H.R. 1279 estimated by the Sentencing Commission.

Job Corps programs deter crime by guiding at-risk youths and adults to getting a job or full-time study. About 75 percent of Job Corps participants move on to a full-time job or study and are one-third less likely to be arrested than nonparticipants. This approach makes sense as a crime deterrent, and it is also economically beneficial.

Youth crime and gangs are an issue in many cities around the country. In my home city of Worcester, Massachusetts, I helped coordinate a community-wide forum this past fall to address the issue of gang violence. Local police, city government officials, the district attorney, the sheriff's office, and hundreds of individuals were among the attendees. Also participating in this event was the Boston Ten Point Coalition, a nationally recognized leadership foundation whose mission is to reach out to at-risk youth and gang members in hopes of reducing violence in the community.

One particular item the Coalition discussed was the Adopt-A-Gang program, in which city churches keep their doors open and serve as a support center for troubled youth. The churches work with local law enforcement to communicate messages of nonviolence and zero tolerance for crime to these youths. And I am happy to say that the churches of the city of Worcester, along with the city government, the police department and local businesses are currently working with the Coalition to implement this program.

Hands-on, coordinated efforts like the Adopt-A-Gang program are how youth crime can be deterred, not through codification of a so-called gang-buster bill like H.R. 1279. Early prevention programs like Head Start reduce crime; expansion of death penalty provisions will not. Recruitment efforts by Job Corps deter gangs; prosecuting young people as adults will not. Collaborative interventions like Adopt-A-Gang program protect our community; mandatory minimum sentencing will not.

Mr. Speaker, none of the provisions in this bill have proven to be effective ways of dealing with gangs and violent youth behavior. Instead of taking a comprehensive approach to the problem, H.R. 1279's ''punishment first, prevention last'' methodology does not dedicate any efforts toward early intervention, education or rehabilitation.

Ask any cop. Aggressive policing alone will never break the cycle of

gang violence. However, one of the things this bill also does not address is the shortage of police officers across the country. The Federal Government is cutting the COPS program. Local communities all across this country are laying off police officers at a time when we should be increasing the number of police who are on our streets. Intervention and preventive programs like Head Start, Job Corps and the Ten Point Coalition are crucial to any hopes of deterring gangs.

Mr. Speaker, for the past decade, this House has worked in a bipartisan manner to effectively draft and pass comprehensive juvenile justice legislation. This bill is a sharp break with that tradition. Getting tough should mean passing legislation that works, not just passing legislation that sounds tough.

Mr. Speaker, finally, let me just say that 16 Democratic amendments were not made in order by the Committee on Rules last night. Why? I have no idea. According to our schedule, we are going to be done today by around 4 p.m. Surely it is not because we do not have the time to be able to debate some of these important amendments.

This is the kind of legislation where people from different communities, from urban areas and from rural areas who are dealing with this issue of gang violence have important ideas. They brought them forward in the Committee on Rules last night. Yet, last night, the Committee on Rules said to 16 Democrats that you will be shut out of this debate. I do not think that is the way we should be discussing a bill like this.

So, Mr. Speaker, I would ask my colleagues to oppose H.R. 1279 and oppose the rule.

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

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume to clarify and to remind my colleagues on the other side, who are suggesting we should be adding more social programs to this legislation, that this is not a social programs bill. It is a law enforcement bill. If they would like to work with the chairman of the Committee on the Judiciary to craft a bill that would authorize arts and craft classes for gang members, certainly they can do that.

I would also like to mention that we currently have spent over the past 4 years, 2001 to 2004, over $2.1 billion on juvenile social programs aimed at prevention. And even with $2.1 billion, we have continued to see this dramatic rise in gang violence.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. FORBES), the distinguished author of the bill and member of the Committee on the Judiciary.

Mr. FORBES. Mr. Speaker, it is with a great deal of pride that I rise today to support both this rule and the underlying bill and to point out to my good friend on the other side that this is a bipartisan bill, and it is a bill that is designed to reach a major problem in our country today, which is the rise of violent gang crime.

When I listen to some of our opponents talk about this bill, they always use the term ''antisocial behavior,'' and I can tell you from studying gangs for over 10 years, it is not antisocial behavior that we are talking about. Let me, Mr. Speaker, tell you what we are talking about. We are talking about machete attacks, witness intimidation, extortion, cold-blooded assassination, rapes, cutting off people's fingers, cutting off their arms, cutting off their heads.

But what concerns me the most, Mr. Speaker, is the metamorphosis I have seen in violent gang activity across our country. First of all, there has been a huge change in numbers. My good friend from Georgia mentioned earlier that, as we sit here and debate this bill, there is probably between 750,000 to 850,000 gang members in the United States. To put that in perspective, if they were an army from a foreign country, it would be the sixth largest army in the world. And that is not waiting to get in our borders, but already here.

Their violence has increased enormously. In some of these gangs, in order to be able to get in, if you are a woman, you have to be raped in, for 30 minutes by six different individuals. If you are a male, you have to be either beaten in or, to some of the gangs, you have to murder somebody to get into the gang.

And they have become national and international in scope. No longer are we talking about the old Jets and Sharks from West Side Story; we are talking about gangs that are across the country that have boards of directors outside the prisons, boards of directors inside the prisons, and they are ordering violent activity. They may be in Los Angeles, but they are ordering the violence in another part of the country.

Their recruitment is now reaching as low as the elementary schools, and their motivation to join is no longer just a fear or a want to belong to something. Today, many people feel if they do not join the gang, they will be beaten or intimidated by the gang. So it is the presence of the gang and the fear and intimidation of the gang that is drawing them there.

Also, one of the things that concerns us most is that many of these gangs have become the most proficient smugglers of individuals and weapons in the country, and it is a small linkage between the gang activity that we are seeing and their connection with organized terrorist activity.

What this bill says is that, if you join a violent criminal gang and you commit a gang crime, you will go to jail for a long time, or you will help us bring down that network. What this bill says is that, if you are a gang leader, you can no longer order violence in one part of the country by a 16- or 17-year old and expect to go scot-free, because the Federal, State and local government is coming after you. It also says that we are going to use the combined strength of the Federal, State and local government to protect citizens in our own borders from the domestic terror they face from gangs.

Mr. Speaker, I would suggest that if this bill fails, we might as well put a sign on a billboard that says ''Coming to a neighborhood near you soon,'' because that is the growth we are seeing in violent gangs.

My good friend just raised in his opposition to the bill the support of the California Gang Investigators Association. They support this bill. The Fraternal Order of Police supports this bill. The National Latino Peace Officers Association supports this bill. The National Association of Police Organizations supports this bill. The major chiefs of law enforcement departments across the country support this bill. The National Troopers Coalition supports this bill.

Mr. Speaker, I hope we will support this bill and make it into law and protect our citizens.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume to respond to my colleague by saying that all the groups he has mentioned, and so many more, also support the COPS program, too, which the President has cut by $40 million. We can talk all we want about using all this harsh rhetoric, but the bottom line is, there are laws already on the books if you commit a violent crime in this country. Right now, if you commit a murder, you will go to jail.

One of the things that is most troubling to me as we talk about how we make our communities safer, there is no talk about the fact that we are cutting funds for our local police departments. We need more police on the streets. That is not the only answer here, but clearly, the answer is not cutting the COPS program, which the Republican majority in this House is doing, and the President has suggested in his budget.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have worked with gangs at home in conjunction with our police department, and there is a way to start prevention. I recognize that the crimes that have been mentioned here this morning are crimes that should be punished. I believe if you do the crime, you do the time. But I also believe that you can prevent this with young people.

I dialogued with members of a gang several years ago, shortly after I heard that the people are coming from Los Angeles to start gangs. And in dialoguing with these young people, I first had to understand what they were saying. That gang activity has been

converted to something positive because I encouraged it. I said, Stay together but do not do crime stuff, do things positive. That is what they have done. They have even run people for office. You have got to not give up on young people.

Americans deserve a bill that would successfully combat gang activity and violence. This bill does fall short of that. This bill fails to address the root of the problem. Even though law enforcement is vital, we must try to prevent gang activities before they occur. Prevention programs can save many lives and many dollars. It is a lot cheaper to prevent all this crime and prevent them going to jail and for them to stay in school.

Of the $50 million appropriated in this bill, not one penny goes toward prevention. You can call it play. You can call it anything you want. But in-school and after-school prevention programs successfully teach young people the skills they need to combat peer pressure. They target environmental risk factors by teaching young people conflict resolution skills, cultural sensitivity and the negative aspects of gang life, if it is violent.

These young people want to be a part of something, and it might as well be a positive experience. We must stop the violence at the source. If we do not put forth that activity, that is when it gravitates to what he just discussed. We must give our young people a path to success not just a path to prison.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and the underlying legislation. I want to congratulate my colleagues, the gentleman from Georgia (Mr. GINGREY), for his management of this rule; and the gentleman from Virginia (Mr. FORBES) for the hard work that he has put into this effort.

It is amazing, as we listened to those numbers that the gentleman from Virginia (Mr. FORBES) used, talking about the fact that this would be the sixth largest army on the face of the earth, between three-quarters of a million and 850,000 gang members, 21,500 gangs out there; the fact that it has become such an international entity.

□ 1115

It is clear that we need to do everything that we can to take action.

Mr. Speaker, I believe that this rule will provide us with an opportunity to do just that. At the close of his statement, the gentleman from Massachusetts (Mr. MCGOVERN) bemoaned the fact that we do not have enough amendments to be made in order by Democrats. The fact of the matter is the gentlewoman who just spoke, my very good friend from Dallas (Ms. EDDIE BERNICE JOHNSON), is going to have an amendment made in order under this rule.

The gentleman from Texas (Mr. CUELLAR) is going to have an amendment made in order under this rule. The gentlewoman from California (Ms. WATSON) is going to have two amendments made in order under this rule. The gentleman from Virginia (Mr. SCOTT) who is sitting here on the floor along with the gentlewoman from California (Ms. WATERS) is going to have an amendment made in order under this rule.

The fact is six of the 10 amendments that are going to be made in order under this rule are being offered by members of the minority, creating an opportunity for us to consider a wide range of alternatives in dealing with what everyone acknowledges is an extraordinarily serious problem.

I want to take a moment to talk about three other amendments that are made in order under this rule that are very important, and I urge support for those amendments. They are being offered by the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Georgia (Mr. NORWOOD). The fact is many of the problems that are gang-related stem from an issue which we have just begun to deal with by passing the REAL ID Act and that has to do with the problem of illegal immigration. We know when we look at the number of gang-related homicides that have taken place in Southern California in the last 5 years, in the county where I live, Los Angeles, we have had 307 gang-related homicides. And now the number of those murders is spilling over into San Bernardino County.

One of the things that we found, tragically, is that much of this is directly related to the problem of illegal immigration. An overwhelming majority of the people who come into this country illegally, Mr. Speaker, come here for one reason and one reason only and that is to feed their families, to make sure that they can make a better life for their families. But of the remaining 2 percent who come in, tragically many of them have been perpetrating crime and tragically they are attracted to gangs.

As was said earlier by the gentleman from Virginia (Mr. FORBES), many of these gangs are managed from inside of prisons, outside of prisons, boards of directors, and there is an international component to this which must be addressed. So I will say that the amendment of the gentleman from Virginia (Mr. GOODLATTE), which I think is a very good one, will actually call for an additional 5 years of incarceration if, in fact, the gang member, the criminal, is found to be here illegally.

One of the things we need to make sure that we do, Mr. Speaker, is that as we increase that level of incarceration for that illegal immigrant felon, it is essential that we make sure the Federal Government provide the resources for that incarceration. That is something that must be done. It is done under the State Criminal Alien Assistance Program, the SCAAP program; and we have to make sure that we provide those resources there, but it is correct and very important for us to do what we can to ensure that those people who are here illegally and perpetrate crimes against our fellow citizens are penalized for that.

I believe we have a very good piece of legislation here. It will help us turn the corner on what is a very serious problem. We also need to do everything that we can to, as has been pointed out by a number of people, train and provide incentive and create opportunity for young people so they are not attracted to the gang life and a life of crime.

Mr. Speaker, I urge my colleagues' support of this very fair and balanced rule and, as I said, urge support for the underlying measure and urge support for the Goodlatte amendment and the two Norwood amendments.

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

I always enjoy listening to the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER). He mentions that a handful of Democratic amendments were made in order, and I guess we all should be grateful on this side of the aisle because usually we get shut out totally. But the fact of the matter is 16 Democratic amendments were not made in order. Sixteen amendments have been shut out from this debate. If this issue was so important, and it is important, then why can we not take the time to debate all the various ideas? As I said, according to the schedule, we may be out of here at 4 o'clock today. I am willing to stay until 5, or even until 6 or even until 7 to give these other people an opportunity to have their concerns voiced on this floor.

We all represent communities, unfortunately, that have been touched by gang violence. All of us have dealt with community leaders, with our local police, in trying to figure out how best to deal with this violence. We all have good ideas. I think, especially on an issue like this, as many people who have these ideas should be able to bring them to the floor and to be able to debate them. But, unfortunately, 16 amendments have been totally blocked from consideration on this bill.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Speaker, if you listen to the debate, you might not think it is illegal to use a machete to chop somebody's hand off or to, last night, gang-rape a handicapped child in the park, murder for hire, cold-blooded murders. You might not think those are illegal. In most jurisdictions in the country, certainly in the jurisdictions that I represent, it is already illegal to take a

machete and chop somebody's hand off, and I have not heard complaints from the local police that they need a new Federal law to help deal with those crimes.

Mr. Speaker, this bill was introduced just about 2 months ago, incidentally the same day that a juvenile justice coalition released just another study showing how trying more juveniles as adults will actually increase crime. The rule, of course, does not allow us to address that issue, where juveniles, the marginal juveniles, the ones not now tried as adults in State court, would be tried as adults under this legislation. I have not seen any study that contradicts them, but all of the studies I have seen show that that will actually increase the crime rate because when they are tried as adults, they are also locked up with adult criminals and come out worse than they went in.

No amendments in this rule are allowed to address the death penalty, which has been shown to be racially discriminatory, which has been shown to have no effect on crime and shown to be so inappropriate that the Supreme Court with seven Republican appointees sitting on the court ruled that, for juveniles, the death penalty was unconstitutional. We have not had an opportunity under the rule to address that, not even the fact that under the bill you can have a capital prosecution for accidents, accidental actions. It does not require an intent to kill someone. It could have been an accident. There was no amendment allowed for that.

There is no amendment to allow the little money in the bill to go to local law enforcement. Virtually all of the money goes to Federal law enforcement. If you are going to have an effect on gangs, the money ought to go to where the gangs are actually fought, on the local.

Mr. Speaker, we have not had the amendments to actually address the kinds of problems that are in the bill. It came out at the last minute. My colleague from Virginia has mentioned all the people supporting it. I know one letter we received talked about the need for all of the money in the bill going to law enforcement and help get the money for law enforcement in the bill to the localities, and you look in the bill and there is no money. It is all for Federal law enforcement, Federal prosecution. Virtually nothing for local law enforcement. If you look at the title of the bill, you think you are doing something. In fact, you are doing nothing.

Mr. Speaker, the impact of this bill is going to round up a few low-level people committing little crimes, some even misdemeanors, and they will be getting 5- and 10-year mandatory minimum sentences. If we are going to do something about crime, if you ask anybody that knows what they are talking about what to do about juvenile crime, they will tell you prevention and early intervention. Keep the kids out of trouble and if they get in trouble to begin with, get them right back on track. There is no money in here for prevention.

We have heard a crack about arts and crafts for gang members. Let me tell you something. Arts and crafts for gang members will do more to reduce juvenile crime and gang membership than the provisions in this bill, and everybody knows it.

I have got to admit that the sound bites and slogans are stronger on the other side, but all of the studies show that this bill would do virtually nothing to reduce juvenile crime and is certainly not an effective use of the taxpayers' money if your goal is to actually reduce crime. You need to put the money into prevention and early intervention. We lead the world in incarceration already. If you are going to get any more crime reduction out of the next dollar we are going to spend, it ought to go into prevention and early intervention to keep the kids out of trouble; 850,000 kids are not going to come out of gangs because we pass this legislation. They are in gangs now because they have nothing to do in the afternoon. We need to defeat this bill and do something serious about juvenile crime.

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

The gentleman from Virginia who just spoke is a brilliant lawyer, and I know he is not missing any points; but I want to say it is very important that the rest of our colleagues understand, we know that all of these crimes mentioned here today are illegal. But the point is, this bill addresses the dismantling of the systems that support gangs, and I think it is very important that we keep that in mind.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. REICHERT), 8 years King County sheriff and 30 years as a police officer.

Mr. REICHERT. Mr. Speaker, as the Congressman said, I have 33 years of law enforcement experience. In fact, up until January 3 of this year, I was a cop. One of the things I know about cops is that they need all kinds of tools, and we do need police officers on the street; but one of the most important things that cops want is to know that their community supports them, local, State, and Federal.

Mr. Speaker, we are here today to talk about a very serious problem. Across the country we are seeing a resurgence of organized crime sprawling into our towns and our neighborhoods. Gangs are becoming a magnet for youth, as they long to belong to something. This is hardly the team we want our children to join.

Gang violence in America is not a sudden problem. It has been a part of urban life for years, offering an aggressive definition and identity to those seeking a place to belong in the chaos of a large metropolitan area. However, as gangs gain momentum and invade smaller communities, it is time to take a more serious and focused approach. The gentleman from Virginia (Mr. FORBES) addresses this critical problem today in the Gang Deterrence and Community Protection Act of 2005.

Prior to being elected to sheriff, as I said, I served 33 years as a cop. I have worked with prostitutes, drug dealers, and gang bangers for that length of time. My colleagues in the sheriff's office and I actively fought to curb the growth and influence of gangs. I know not only in my home State of Washington but across the country, law enforcement officers recognize gangs for the serious threat they are to our community.

I believe in taking problems head on, not running away. You evaluate the facts, you make a decision, and then you see the solution through. We have recognized the consequence of letting this situation go forward for far too long. It is dangerous to all Americans. Whether a gang currently has a presence in our hometowns or not, we need to take a careful look at where this issue is headed and stop the influence of gangs before it spirals out of control and out of our hands.

The United States Department of Justice cites that there are currently 25,000 active gangs in 3,000 jurisdictions across this country; 25,000 gangs. That equals 750,000 gang members. If growth continues, we could be looking at 1 million gang members across the country in only a few years. These groups are a funnel to criminal activities, allowing a central point to encourage violence and a family that preaches drug trafficking, murder, theft, prostitution, and rape. In fact, street gangs are the primary distributor of illegal drugs in the United States.

Mr. Speaker, I am a man of faith who believes deeply in family and responsibility. Our obligation is to American families and communities. We need to look out for their futures. We need to direct our youth towards a path of success and progress as productive members of society looking towards a better country. We cannot afford to lose those talented youths in our community to a life on the street with drugs and a gang hierarchy whose form of discipline is violence.

Mr. Speaker, I applaud the gentleman from Virginia's efforts to deter gangs across the country and urge my colleagues to support the rule and vote for final passage later today.

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

The gentleman from Washington just said that our local law enforcement would appreciate the support of the Federal Government.

□ 1130

I could not agree with him more. Then why are we cutting community policing programs? I mean it does not make any sense to me. And why did the Committee on Rules last night deny the gentleman from Massachusetts (Mr. CAPUANO) and the gentleman from

New York (Mr. WEINER) the right to offer an amendment that reauthorizes the Community Oriented Policing Services, the COPS program for fiscal year 2006, 2008? That was denied. We could have had a vote on the floor today on that amendment and a full debate, and that was denied in the Committee on Rules.

The gentleman from New York (Mr. CROWLEY) had an amendment that would require that the purchase of firearms, ammunition and explosives to be made in person and to require records to be kept on how the purchases were made. The reason why this is an important amendment because more and more we find out that gangs are purchasing weapons over the internet. Yet that was not even made in order. I know the gun lobby does not like that amendment, but even so, if we want to make sure that gang members have a more difficult time getting access to firearms, we certainly should have debated that amendment.

The gentlewoman from Texas (Ms. JACKSON-LEE) had an amendment that would make it illegal to transfer a firearm to any individual that the Federal Government has designated as a suspected or known gang member or terrorist. I am trying to find where the controversy is with that amendment. Yet the Committee on Rules would not allow that amendment to be made in order on the floor today.

The gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Virginia (Mr. SCOTT), the gentleman from Massachusetts (Mr. DELAHUNT), and the gentlewoman from California (Ms. WATERS) had an amendment that strikes the section of the bill that allows the Attorney General to charge as adults those juveniles who commit violent crimes and are at least 16 years old. We can disagree on whether or not juveniles should be tried as adults, but, nonetheless, it is an important enough issue that we should have debated it on the floor here today and let Members decide that. And yet that was not made in order.

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) had an amendment that establishes funding for prevention and intervention programs for the suppression of youth and gang violence. That was deemed to not be made in order.

The gentleman from California (Mr. SCHIFF), the gentleman from California (Mr. CARDOZA), the gentlewoman from California (Ms. WATSON), and the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) had an amendment that authorizes the expansion and the enhancement of law enforcement and community-based prevention and intervention programs targeting criminal street gangs, gang members and at-risk youth. That was ruled out of order by the Committee on Rules. I mean, I can go on and on and on. There are really good ideas here, and yet, for whatever reason, the Committee on Rules last night said they are not going to have their day on the House floor. And I do not understand why, and nobody who has spoken on the other side has explained to me why those amendments were not made in order, not even the Chairman of the Committee on Rules. We have the time. This is an important issue. These amendments should have been made in order. And, quite frankly, I think it is a disgrace and does a great disservice to a lot of people in this country who care about this issue that these Members were denied their right to offer these amendments.

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

Mr. GINGREY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. FORBES), the bill's author.

Mr. FORBES. Mr. Speaker, I think, if one is around here long enough, they get to the point where they do not believe they could be shocked by anything. But when I heard the other side a while ago say that they believe that giving arts and crafts to violent gang members will do more to deter crime than empowering law enforcement agents and locking up gang members in jail, that, I have to admit, still shocks me.

Mr. Speaker, I include for the RECORD a letter from the National Latino Peace Officers Association, which supports all the provisions of this bill and asks that this bill be passed; from the Fraternal Order of Police that supports this bill and asks that it be passed; from the National Association of Police Organizations, which supports this bill and asks that it be passed; from the National Sheriffs' Association, which supports the provisions of this bill and asks that it be passed; from the Law Enforcement Alliance of America, which supports the provisions of this bill and asks that it be passed; from the National Troopers Coalition; from the California Gang Investigators Association; from the Los Angeles Deputy Sheriffs office; and from the Major County Sheriffs' Association.

And, Mr. Speaker, we will have a lot more as the day goes on.

MAJOR COUNTY SHERIFF'S ASSOCIATION,
Alexandria, Virginia, April 20, 2005.

HON. JAMES SENSENBRENNER, Jr.,
House of Representatives, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the Major County Sheriffs' Association, I am writing to express our support for H.R. 1279, the ''Gang Deterrence and Community Protection Act of 2005.'' This much needed legislation takes a necessary step toward addressing the growing epidemic of gang violence that is affecting our entire nation and has even stretched into some of our most rural communities.

The Department of Justice estimates there are currently over 25,000 gangs and over 750,000 gang members who are active in more than 3,000 jurisdictions across the United States. Gang activity has been directly linked to the narcotics trade, human trafficking, identification documentation falsification and the use of firearms to commit deadly shootings.

H.R. 1279 would address the growing problem of gang violence by creating a rational strategy to identify, apprehend and prosecute gangs across the nation. Specifically, the bill would provide for the designation of High Intensity Gang Areas (HIGAs) to identify, target and eliminate violent gangs in areas where gang activity is particularly prevalent.

The bill would also create a statute to prosecute criminal gangs similar to the Racketeer Influenced and Corrupt Organizations statute (RICO) that has proven so effective against organized crime, and would provide more than $385 million over the next five years in grants to support Federal, State, and local law enforcement efforts against violent gangs, and to coordinate law enforcement agencies' efforts to share intelligence and jointly prosecute violent gangs.

Finally, under H.R. 1279, several categories of gang-related offense would be subject to mandatory minimum sentences of at least 30 years in prison for cases of kidnapping, aggravated sexual assault or maiming.

The ''Gang Deterrence and Community Protection Act of 2005'' is a comprehensive piece of legislation that addresses both the enforcement and prosecution aspects of the battle against gang violence.

Thank you for your time and attention, as well as your continued support of law enforcement.

Sincerely,

SHERIFF MICHAEL J. BOUCHARD,
MCSA Vice President—Legislative Affairs.
SHERIFF JAMES A. KARNES,
MCSA President.

ASSOCIATION FOR
LOS ANGELES DEPUTY SHERIFFS, INC.,
Los Angeles, California, April 20, 2005.

Re H.R. 1179—Support; H.R. 1518—Support

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the members of the Association for Los Angeles Deputy Sheriffs (ALADS), which represents over 7,000 deputy sheriffs and district attorney investigators in Los Angeles County. I am writing in support of H.R. 1279, The Gang Deterrence and Community Protection Act of 2005, and H.R. 1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005.

H.R. 1279, The Gang Deterrence and Community Protection Act of 2005 not only designates high intensity gang areas and authorizes funds to combat gang activity, it creates a new gang prosecution statute; increases penalties for violent gang crimes; and limits a criminal street gang to a group or association of three or more individuals that commit two or more gang crimes.

H.R. 1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005, provides for sound statutory reforms of ineffective anti-drug laws designed to protect children.

ALADS strongly supports both H.R. 1279, and H.R. 1528.

Sincerely,

ROY L. BURNS,
President.

CALIFORNIA GANG
INVESTIGATORS ASSOCIATION,
Huntington Beach, CA, April 25, 2005.

Hon. F. JAMES SENSENBRENNER,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE SENSENBRENNER: Mr. Chairman, as President of the California Gang Investigators Association (CGIA) I am writing to offer the support of the Association for H.R. 1279, The Gang Deterrence and Community Protection Act of 2005 and H.R.

1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005. The Association supports the legislative effort to curb gang violence and the associated criminal drug networks that goes hand-in-hand with street gang activity. We have supported the efforts of Senators Hatch and Feinstein in their anti-gang efforts and stand ready to be of any assistance we can be in your committee's efforts to obtain the same goals.

Street gangs continue to spread their unique brand of urban terrorism across our nation. Not only have they become prevalent in most urban inner cities, but have become a scourge in our rural communities as well, presenting a threat to this nation's bread basket. As I travel around this country lecturing to these communities it seems their primary concern for their personal safety is not from some foreign terrorist but their greatest fear is of the local street gangs. Hundreds upon hundreds of Americans are slain every year by street gangs, and thousands more injured.

This legislation provides new law which will aid in this struggle, not only attacking the gangs but with its companion bill, begins to focus on their drug business as well.

If our association can be of any further assistance to you please feel free to contact me.

Sincerely yours,

WESLEY D. MCBRIDE,
President.

NATIONAL TROOPERS COALITION,
Green Bay, WI.

Re H.R. 1279—Gang Deterrence and Community Protection Act of 2005

Hon. F. JAMES SENSENBRENNER, JR.,
Chair, House Judiciary Committee,
House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: As Chairman of the National Troopers Coalition, (NTC) I am writing to express our support for H.R. 1279, Gang Deterrence and Community Protection Act of 2005. The NTC represents over 40,000 state troopers and highway patrolmen throughout the United States.

We urge you to continue your work on fighting Gang Violence in America; we support all of the provisions contained in H.R. 1279.

Our members continue to deal with increased gang crimes and violence, as we have for years. The provisions of H.R. 1279, that in part deal with increased penalties, clarification of definitions, and increased resources and appropriations will greatly aid us and our law enforcement counterparts with gang investigations, deterrence and prevention.

Accordingly, on behalf of our members, we fully support and urge passage of H.R. 1279.

Sincerely,

CASEY L. PERRY,
Chairman, National Troopers Coalition.

THE LAW ENFORCEMENT
ALLIANCE OF AMERICA,
Falls Church, Va., April 19, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Judiciary Committee,
House of Representatives, Washington DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the more than 75,000 Members and Supporters of the Law Enforcement Alliance of America (LEAA), I am writing to express our strong support for the Gang Deterrence and Community Protection Act of 2005 (H.R. 1279). This legislation provides law enforcement and prosecutors with much needed tools to combat the growing organized threat of violence from criminal street gangs.

Today's gang violence problem is not one of neighborhoods, but increasingly an interstate and even international operation involving highly structured and extremely violent criminal enterprises. H.R. 1279 recognizes this growing menace and provides a much needed response.

By providing state and local law enforcement with the additional resources to pursue such criminals and giving prosecutors additional tools to punish such criminals. H.R. 1279 offers a significant opportunity to make an impact in the fight against violent crime. I respectfully ask for your support for this much needed federal initiative. If you have any questions about LEAA's position on H.R. 1279 or any other matter, feel free to have your staff contact our Legislative Director, Kevin Watson at (703) 847–2677.

Sincerely,

JAMES J. FOTIS,
Executive Director.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, Virginia, April 19, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
House of Representatives, Committee on the Judiciary, Washingtn, DC.

DEAR CHAIRMAN SENSENBRENNER: I am writing on behalf of the National Sheriffs' Association and the 3,087 sheriffs across the country to express our full support for H.R. 1279, the ''Gang Deterrence and Community Protection Act of 2005.'' This much needed legislation takes a necessary step toward addressing the growing epidemic of gang violence that is affecting our entire nation and has even stretched into some of our most rural communities.

The Department of Justice estimates there are currently over 25,000 gangs and over 750,000 gang members who are active in more than 3,000 jurisdictions across the United States. Gang activity has been directly linked to the narcotlcs trade, human trafficking, identification documentation falsification and the use of firearms to commit deadly shootings.

H.R. 1279 would effectively address the growing problem of gang violence by creating a rational strategy to identify, apprehend, and prosecute gangs across the nation. Specifically, the bill would provide for the designation of High Intensity Gang Areas (HIGAs) to identify, target and eliminate violent gangs in areas where gang activity is particularly prevalent.

The bill would also create a statute to prosecute criminal gangs similar to the Racketeer Influenced and Corrupt Organizations statute (RICO) that has proven so effective against organized crime, and would provide more than $385 million over the next five years in grants to support Federal, State, and local law enforcement efforts against violent gangs, and to coordinate law enforcement agencies' efforts to share intelligence and jointly prosecute violent gangs.

Finally, under H.R. 1279, several categories of gang-related offense would be subject to mandatory minimum sentences of at least 30 years in prison for cases of kidnapping, aggravated sexual assault or maiming.

The ''Gang Deterrence and Community Protection Act of 2005'' is a comprehensive piece of legislation that addresses both the enforcement and prosecution aspects of the battle against gang violence.

The National Sheriffs' Association and its member sheriffs fully endorse H.R. 1279 and thank you for your continued support of law enforcement.

Sincerely,

THOMAS N. FAUST,
Executive Director.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.
Washington. D.C., April 15, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Judiciary Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the National Association of Police Organizations (NAPO), representing 236,000 rank-and-file police officers from across the United States, I would like to thank you for introducing the ''Gang Deterrence and Community Protection Act of 2005,'' and advise you of our support for the legislation. If enacted, this legislation will greatly assist state and local law enforcement in their efforts against gang expansion and violence.

Recent studies on gangs have estimated that over 25,000 different gangs, comprising over 750,000 members are active across the United States. 100 percent of all cities larger than 250,000 have reported gang activity. Compounding this problem, gangs have been directly linked to narcotics trade, human trafficking, identification document falsification, violent maiming, assault and murder, and the use of firearms to commit deadly shootings. The ''Gang Deterrence and Community Protection Act'' works to reduce gang violence by designating High Intensity Gang Areas (HIGAs) and authorizing $20 million per year over five years to combat gang activity. It also creates a new gang prosecution statute focusing on street gangs and increases the penalties for violent gang crimes, strengthening prosecutors' ability to combat gang activities.

NAPO looks forward to fighting for this legislation's passage and I thank you for your continued support of law enforcement. If you have any questions, please feel free to contact me, or NAPO's Legislative Assistant, Andrea Mournighan, at (202) 842–4420.

Sincere

WILLIAM J. JOHNSON,
Executive Director.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, April 4, 2005.

Hon. J. RANDY FORBES,
House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE FORBES:,I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for H.R. 1279, the ''Gang Deterrence and Community Protection Act of 2005.''

This legislation will attack the growing problem of criminal gang activity by providing increased Federal funding, almost $390 million, to support Federal, State and local law enforcement efforts to combat gang activity. The bill aims to facilitate greater cooperation between law enforcement officers and prosecutors at every level of government by providing for the designation of certain locations as ''high intensity interstate gang activity areas.'' This strategy, modeled after the High Intensity Drug Trafficking Area (HIDTA) program, will enable law enforcement in these designated areas to build successful multijurisdictional efforts targeting criminal street gangs using Federal funds. Law enforcement agencies in these designated areas will be able to call on Federal resources to hire additional State and local prosecutors and purchase technology to increase their abliity to identify and prosecute violent offenders.

The legislation also creates new criminal gang prosecution offenses and enhances existing gang and violent crime penalties to deter and punish illegal gang activity. The bill would also allow 16-year olds to be charged as adults in Federal court for crimes of violence.

We believe that our nation's law enforcement officers can be more effective at fighting the menace of criminal gangs if they have the necessary resources that this legislation provides. I want to commend you for your leadership on this issue. If I can be of any further help on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,
Nationl President.

APRIL 18, 2005

Re Gang Deterrence and Community Protection Act H.R. 1279

Hon. F. JAMES SENSENBRENNER, Jr.,
Chair, House Judiciary Committee, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE SENSENBRENNER: As the House Judiciary Committee continues its work on Gang Violence in America, on behalf of the National Latino Peace Officers Association (NLPOA), we support all of the provisions contained in H.R. 1279 and urge the Committee to adopt all of the provisions to strengthen federal law enforcement's capabilities on combating the growing gang violence in America:

18 U.S.C. 521 Criminal Street Gang Prosecutions, increasing the penalty for such criminal acts on behalf of a criminal gang;

Defining Gang Crime for federal prosecution;

Increased Penalties for Racketeering Crimes on behalf of the criminal gangs;

Modification of the Definition of a Crime of Violence; and

Increasing Resources and Appropriations in the newly defined High Intensity Interstate Gang Activity Areas.

NLPOA members have dealt with gang crimes and gang violence for the last 32 years and are experts in this arena; with respect to gang investigations, deterrence, and prevention. The NLPOA recognizes that many gangs are more sophisticated and have more resources than local police departments. Designating federal resources through increase penalties and federal task forces will help Keep America Safe!

Sincerely,

FELIPE A. ORTIZ,
NLPOA National President.

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

What shocks me is that we have people who get up and talk about the importance of supporting our local law enforcement officials, and at the same time, we are supporting budgets that cut money to our local law enforcement agencies.

Mr. Speaker, I include for the RECORD a letter from the National Council of La Raza opposing this bill. I also include for the RECORD a statement that has been signed by the American Bar Association, the American Civil Liberties Union, Chamber of Commerce of the United States, the Children's Defense Fund, the Commission on Social Action of Reform Judaism, Leadership Conference on Civil Rights, the National Urban League, Murder Victims' Families for Human Rights, the NAACP, the National Federation of Independent Business, and the United States Conference on Catholic Bishops, all in opposition to this legislation. I also include for the RECORD, Mr. Speaker, a letter that has been signed by the President of Catholic Charities USA, also opposed to this legislation. And I include for the RECORD, so that it is there, the 16 amendments that the majority of the Committee on Rules decided to not make in order today on this important legislation.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, May 9, 2005.

Re Oppose provisions in the ''gang buster bill'' H.R. 1279 that prosecute youth as adults and impose mandatory minimum sentences.

DEAR MEMBER OF CONGRESS: On behalf of the National Council of La Raza (NCLR), the largest national Latino civil rights organization in the U.S., I urge you to oppose provisions contained in the ''Gang Deterrence and Community Protection Act of 2005'' (H.R. 1279) which is on the suspension calendar this week. Please be advised that NCLR will recommend that votes relevant to the Latino community and final passage of the bill be included in the National Hispanic Leadership Agenda Congressional Scorecard.

The Latino community is directly affected by gang violence, consequently NCLR is committed to finding a solution to combat it; however, the approach in H.R. 1279 is ineffective, irresponsible and simplistic, given that it does nothing to get to the root causes of the problem, and it further exacerbate youth violent behavior. H.R. 1279 will if enacted into law, would have a disparate impact on Latino youth and their families. This bill would undermine overa11 public safety, given that it imposes excessively severe measures aimed at only punishing and not reforming youth violent behavior. Specifically, NCLR strongly opposes two provisions—the prosecution and transfer of youth into the adult system and the inclusion of various mandatory minimum sentences for a broad category of offenses that are labeled ''gang crimes'' and numerous other offenses.

Section 115 of the bill allows for the prosecution and transfer of youth into the adult system. The latest research shows that transferring youth to adult status is a failed public policy approach, resulting in the opposite of what this bill is purporting to do. It will increase—not decrease—youth violence. The research shows that young people prosecuted as adults, compared to those prosecuted as juveniles, are more likely to: (a) commit a greater number of crimes upon release; (b) commit more violent crimes upon release; and (c) commit crimes sooner upon release. The research also shows that youth held in adult facilities, compared to youth held in juvenile facilities, are five times as likely to be sexually assaulted by other inmates, twice as likely to be beaten by staff, 50% more likely to be assaulted with a weapon, and eight times as likely to commit suicide.

With these kinds of risks, it does not make sense for the House to pursue legislation that includes the power to prosecute juveniles as adults in federal court for activities that the states are already well-equipped—indeed, better-equipped—to handle than the federal system. Also, putting the transfer decision at the sole discretion of a prosecutor, not a judge as the law currently requires, violates the most basic principles of due process and fairness.

Section 103 of the bill includes and expands mandatory minimum sentences for a broad category of offenses that are deemed ''gang crime.'' Under this bill, the mandatory minimum sentences for these crimes range: from 5 to 30 years. Although the offenses are serious and individuals who are convicted should be properly held accountable, mandatory sentences often prevent judges from determining the appropriate punishment. When judges are restricted by mandatory sentences, they cannot assess an individuals culpability during the crime or other factors that have bearing on recidivism, thus resulting in inappropriate sentences.

Although mandatory minimums were intended to reduce the racial disparities that were associated with indeterminate sentencing, in practice they exacerbate and mask such disparities by shifting discretion from the judge to the prosecutor. Prosecutors retain the power to plea bargain by offering defendants plea agreements that avoid the mandatory penalty. Studies have shown that this discretion results in a disparity in sentencing outcomes based largely on race and quality of defense attorney. According to testimony from the U.S. Sentencing Commission, in 1999, 39% of those receiving mandatory sentences were Hispanic, 38% were African American, and 23% were White. Hipanics comprised 44% of those subject to five-year mandatory sentences in 1999, 37% of the ten-year mandatory sentences, 20% of the 20-year mandatory sentences, and 8% of the mandatory life sentences. The reality for African American defendants is even bleaker.

NCLR respectfully asks you to oppose legislation that prosecutes and transfers youth into the adult system and that includes and expands mandatory minimum sentences. These provisions will only exacerbate youth violent behavior, at a time when data from the FBI's Uniform Crime reporting program that breaks down the age of people arrested for serious offenses in 2003 showed that the number of people under 18 arrested declined by 30%. Instead, NCLR calls for a comprehensive research—based approach that gets at the root causes of youth violence—which includes but is not limited to prevention, treatment, and effective alternatives to incarceration. If you have any questions please contact Angela Arboleda, NCLR Civil Rights Policy Analyst, at (202) 776–1789.

Sincerely,

JANET MURGUIA,
President and CEO.

JUNE 2, 2004.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to express our strong concern about the unintended consequences that will result from Section 206 of The Gang Prevention and Effective Deterrence Act of 2003—S. 1735. Although Section 206 has been removed from the bill by amendment, we understand discussions are underway to reinsert it.

Section 206 would change the general definition of a crime of violence to require only a ''substantial risk of . . . injury to a person or property,'' and not physical force. Violence, however, is commonly defined as physical force. Thus, removing the ''physical force'' requirement from crimes of violence undermines the purpose of having a special category of heinous crimes.

Moreover, this new definition would broaden crimes of violence to include a number of regulatory violations targeted at businesses. For example, felony violations of environmental statutes, such as the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act, which criminalize violations of both statutory and regulatory requirements, could be deemed crimes of violence. In many cases, these violations are ''technical'' in nature, including record-keeping, reporting, training, etc, and have very low criminal intent standards. With a mere ''knowing'' violation—which requires neither knowledge by the defendant of the underlying regulations or the law nor an intention to violate the law—a business and its

officers and employees are especially vulnerable to criminal penalties. If conviction under the particular statute can result in a I-year prison sentence, thus making it a felony, and if the violation risked injury to a person or the property of another, under the proposed new definition the violation would be a violent crime.

This designation serves as a trigger for a host of consequences, including longer sentences under the federal sentencing guidelines, and a doubling of the statute of limitations. The current statute of limitations for all environmental crimes is five years from the date the violation occurred. As a crime of violence, the statute of limitations would be the greater of either ten years from the occurrence or eight years from discovery of the alleged violation. In addition, conviction of any crime that is labeled a ''crime of violence'' under this proposed statute brings deportation without right of appeal for legal immigrants working for a company, and potential federal money laundering charges, which can result in substantial asset forfeiture.

While we certainly recognize that these consequences were not the intent of this legislation, this provision could have an unjust impact on business. We ask that you give serious consideration our concerns as you continue to work on this issue. Thank you for your attention to this very important matter.

Sincerely,

Chamber of Commerce of the United States.

Association of Oil Pipe Lines.

National Petrochemical & Refiners Association.

National Association of Manufacturers.

Interstate Natural Gas Association of America.

Business Civil Liberties, Inc.

American Chemistry Council.

No. 25 Capuano/Weiner: The amendment reauthorizes the Community Oriented Policing Services (COPS) program for FY2006–FY2008.

No. 26 Crowley: The amendment requires that the purchase of firearms, ammunition and explosives to be made in person and requires records to be kept on how the purchases were made.

No. 23 Jackson Lee: The amendment would make it illegal to transfer a firearm to any individual that the Federal government has designated as a suspected or known gang member or terrorist. It also establishes a system that would assist any individual who is wrongly included on such a list to have his or her name removed.

No. 24 Jackson Lee/Scott/Delahunt/Waters: The amendment strikes the section of the bill that allows the Attorney General to charge as adults those juveniles who commit violent crimes and are at least 16 years old.

No. 15 Eddie Bernice Johnson: The amendment establishes funding for prevention and intervention programs for the suppression of youth and gang violence.

No. 2 Schiff/Cardoza/Watson/Linda Sanchez: The amendment authorizes the expansion and enhancement of law enforcement and community-based prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

No. 21 Waters: The amendment creates a ''Gang Exit Program'' to facilitate the reentry of ex-gang members into society. This program would provide relocation programs, educational programs, special student loans, and housing to ex-gang members.

OTHERS

No. 14 Davis (IL): The amendment strikes the provision in the bill that calls for a minimum mandatory 10 year jail term.

No. 12 Davis (IL): This amendment would strike section 110 and preserve language in current law regarding venue in capital cases.

No. 13 Davis (IL): The amendment strikes the section of the bill that gives the Attorney General the discretion to charge as adults juveniles who commit violent crimes and are at least 16 years old.

No. 22 Jackson Lee: The amendment clarifies that the defendant, and not just a member of the gang, must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge.

No. 16 Eddie Bernice Johnson: The amendment establishes funding for regional databases that track gang activity in high intensity gang areas. These databases contain critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and other fields of information necessary to investigators in solving gang related crimes.

No. 7 Scott: The amendment makes application of the death penalty under the bill contingent upon appropriation of the authorized levels to protect innocence under Title IV of the ''Justice For All Act of 2004.''

No. 8 Scott: The amendment restricts the application of the death penalty to intentional acts of the defendant.

No. 9 Scott: The amendment strikes section 115, which gives the Attorney General authority to prosecute certain juveniles without court assessment or review.

No. 10 Scott: The amendment uses the $57.5 million authorized in the bill for 94 new U.S. Attorneys to go, instead, to local law enforcement to prevent and reduce the formation or continuation of juvenile gangs and the use and sale of illegal drugs by juveniles.

No. 11 Scott: The amendment modifies the definition of a ''gang crime'' so that only the more serious violent offenses are included.

MAY 6, 2005.

DEAR REPRESENTATIVE: On behalf of the United States Conference of Catholic Bishops and Catholic Charities USA, we urge you to oppose provisions in H.R. 1279, Gang Deterrence and Community Protection Act of 2005, the (Gang Bill) that would expand the use of the death penalty, treat juveniles as adults and impose mandatory minimum sentences.

First, we strongly oppose any provision in the bill that would expand the use of the death penalty. As you may be aware, the bishops of the United States oppose the use of the death penalty. Catholic teaching on capital punishment is clear, ''If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person'' (Catechism of the Catholic Church).

Secondly, we urge you to eliminate any provisions in the legislation that would result in the expanded ''transfer'' or ''waiver'' of youth to the adult criminal system and/or placing an additional number of youth in adult correctional facilities. While there is no question that violent and dangerous youth need to be confined for our safety and theirs, we cannot support provisions that treat children as though they are equal to adults. As we stated in our 2000 pastoral statement on criminal justice, we believe that placing juveniles in the adult court system is not a solution to reducing gang activity.

We bishops cannot support policies that treat young offenders as though they are adults. The actions of the most violent youth leave us shocked and frightened and therefore they should be removed from society until they are no longer dangerous. But society must never respond to children who have committed crimes as though they are somehow equal to adults—fully formed in conscience and fully aware of their actions. Placing children in adult jails is a sign of failure, not a solution. (Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice, November 15, 2000).

Additionally, removing youth from state juvenile justice systems greatly reduces their chances of receiving necessary treatment and intervention programs. Unlike state systems around the country, the federal system does not have any specialized programs or facilities to accommodate young people or to a address the root problems, such as abuse, that these children are experiencing at home or on the streets. This emphasis on swift punishment rather than effective treatment and intervention demonstrates a fundamental misunderstanding of the street gang culture and is tantamount to giving up on our children—something that our faith tradition teaches we should never do. Rather, we believe the challenge as responsible adults is to create a fairer and more effective youth justice system, where there is a balance between prevention, treatment and intervention that gives young people a chance to make better choices. Unfortunately, we believe several provisions in H.R. 1279 do not rise to the challenge.

Finally, we urge you to oppose language in the bill that includes and expands mandatory minimum sentences for a broad category of offenses that are deemed gang crime. In the Gang Bill, the mandatory minimum sentences for gang related crimes range from five to thirty years. Although the offenses are serious and individuals who are convicted ought to be properly held accountable, rigid sentencing formulations could prevent judges from properly assessing an individual's culpability during the crime or other factors that have bearing on recidivism, thus sometimes resulting in harsh and inappropriate sentences. From our experience, arbitrarily expanding mandatory minimum sentences does nothing to deter youth gang violence and we urge you to oppose any such provisions.

Thank you for your consideration of this very important issue. Should you have any questions or comments, please do not hesitate to contact Mr. Andrew Rivas in our office of Social Development and World Peace, 202–541–3190, *arivas@usccb.org*, or Ms. Lucreda Cobbs at Catholic Charities USA, 703–549–1390, *lcobbs@catholiccharitiesusa.org*. With every good wish, we are

Faithfully yours,

Most Reverend Nicholas DiMarzio,
Diocese of Brooklyn, Chairman, Domestic Policy Committee, United States Conference of Catholic Bishops.

REV. LARRY SNYDER,
President, Catholic Charities USA.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, May 9, 2005.

DEAR REPRESENTATIVE: Oppose the ineffective policies proposed in H.R. 1279, the Gang Deterrence and Community Protection Act of 2005.

Representative Randy Forbes (R–VA) has introduced H.R.1279, the Gang Deterrence and Community Protection Act of 2005 (''Gang bill''). The Gang bill could subject innocent people to the death penalty, creates numerous discriminatory mandatory minimum sentences, could result in wrongfully

convictions based on unreliable evidence, and creates more serious juvenile offenders by incarcerating children in adult prisons. H.R. 1279 is scheduled for a vote on the House Boor on Wednesday, May 11, 2005, we strongly urge you to oppose this legislation.

Congress should not expand the Federal death penalty until it ensures innocent people are not on death row.

Expansion of the federal death penalty undermines the very reforms that were enacted in last year's Justice for All Act (P.L. 108–405), which addressed some systemic problems with the federal death penalty. H.R. 1279 would create several new offenses and make them punishable by the death penalty as well as increase the penalty for several existing federal offenses to the possibility of a death sentence.

The death penalty is in need of reform, not expansion. According to the Death Penalty Information Center, 119 prisoners on death row have now been exonerated. Chronic problems, including inadequate defense counsel and racial disparities, plague the death penalty system in the United States. The expansion of the death penalty potential for gang crimes creates an opportunity for more arbitrary application of the death penalty. States continue to address the systemic problems with the administration of the death penalty by implementing reform and moratorium efforts, while the federal government, in H.R. 1279, is moving to expand the death penalty in lieu of enacting or implementing reforms on the federal level.

In addition to expanding the number of federal death penalty crimes, Section 110 of the bill expands venue in capital cases to the point that any location even tangentially related to the crime could be the site of a trial. Studies of the federal death penalty show that a person prosecuted in Texas is much more likely to be charged, tried and sentenced to death in a capital case than a person who is prosecuted for the same crime in Massachusetts. This bill will exacerbate these geographic inequities that exist in the federal death penalty system. The wide range of discretion in both what to charge and where to bring the charge will give prosecutors tremendous latitude to forum shop. This broad discretion will increase the racial and geographic disparities already at play in the federal death penalty.

People could be convicted of a ''gang'' crime even if they are not members of a gang.

This bill would impose severe penalties for a collective group of three or more people who commit ''gang'' crimes. Even more disconcerting is that a person could receive the death penalty for the illegal participation in what would be considered a ''criminal street gang'' while having no idea or intention of being a part of a so-called ''gang.'' H.R. 1279 revises the already broad definition of ''criminal street gang'' to an even more ambiguous standard of a formal or informal group or association of three (3) or more people who commit two (2) or more ''gang'' crimes. The number of people required to form a gang decreases from five (5) people in an ongoing group under current law to three (3) people who could just be associates or casual acquaintances under this proposed legislation.

Under the Gang bill a ''continuing series'' of crimes does not have to be established to charge a person with a gang crime. Presently, the government has to establish that criminal street gangs engaged ''within the past five (5) years in a continuing series of offenses.'' The continuing series of offenses under current law is essential to preserving the concept of gang activity that the law is trying to target, i.e. criminal activity that has some type of connection to a tight knit group of people. This broader definition of gang crime in H.R. 1279 would result in people being convicted of ''gang'' crimes that are neither ongoing in nature nor connected to each other, and could occur 10, 15 or 20 years apart.

H.R. 1279 further erodes federal judges' sentencing discretion by proposing harsher mandatory minimum sentences.

This legislation further erodes the sentencing discretion of judges by imposing mandatory minimums that would result in unfair and discriminatory prison sentences. Many of the enhanced gang penalties in this bill are mandatory minimum sentences or death. Mandatory minimum sentences deprive judges of the ability to impose sentences that fit the particular offense and offender. Although in theory mandatory minimums were created to address disparate sentences that resulted from indeterminate sentencing systems, in reality they shift discretion from the judge to the prosecutor. Prosecutors hold all the power over whether a defendant gets a plea bargain in order for that defendant to avoid the mandatory sentence. It is not clear what standards (if any) prosecutors use to offer plea bargains, therefore only a few defendants get the benefit of avoiding the mandatory sentence. This creates unfair and inequitable sentences for people who commit similar crimes, thus contributing to the very problem mandatory minimums were created to address.

H.R. 1279 jeopardizes a person's right to a fair trial and creates the possibility that innocent people would be held for long periods of time prior to a trial.

Innocent people could be convicted of crimes they did not commit if the statute of limitations is extended as proposed in this legislation. The Gang bill proposes to extend the statute of limitations for non-capital crimes of violence. Generally, the statute of limitations for non-capital federal crimes is five (5) years after the offense is committed. This bill would extend that limitation for crimes of violence to 15 years after the offense was committed or the continuing offense was completed. For example, if a violent crime was committed in 2005, but a person was not indicted until 2020, that individual could be charged with a crime 15 years later. In 2020, 15 years after the crime, alibi witnesses could have disappeared or died, other witnesses' memories would have faded and evidence may be unreliable. The use of questionable evidence could affect a person's ability to defend themselves against charges and to receive a fair trial.

Shifting the burden of proof for pretrial detention in some cases involving guns could result in serious injustices and interfere with an accused person's defense. This legislation would create a rebuttal presumption against bail for people accused of certain firearms offenses during the commission of serious drug crimes. A person who is presumed innocent and has not been found guilty of any crime could be held for months or years without the government having made any showing that he or she is dangerous or a flight risk. Making it more difficult for an accused person to be released on bail prior to trial hinders a defendant's ability to assist their defense lawyer with investigating the facts of the case and preparing their defense.

Children would be put in Federal prison with little opportunity for education or rehabilitation.

Under the Gangs bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child. H.R. 1279 would give the prosecutor the discretion to determine when to try a young person in federal court as an adult, if the juvenile is 16 years of age or older and commits a crime of violence.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by a judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth. The federal government should continue to let states deal with juveniles in their family court systems that were created to address the needs and provide services to young people. Furthermore, a 1996 study showed that youth transferred to adult court in Florida were a third more likely to reoffend than those sent to the juvenile justice system for the same crime and with similar prior records. Of the youth in this study who committed new crimes, those sent to adult court reoffended at twice the rate of those sent to juvenile court. This research emphasizes the need for juveniles to be held accountable in the juvenile justice system, which has more resources to address the problems that cause children to come to the attention of the court system.

While efforts to address gang crime are very important to maintaining public safety, this legislation proposes to confront crime at the expense of the right to a fair trial, at the risk of convicting innocent people and unnecessary exposure to the death penalty. H.R. 1279 will not solve the problem of gang crime in this country, thus members should oppose this bill when the House of Representatives votes on Wednesday, May 11, 2005.

Sincerely,

GREG NOJEIM,
Acting Director.
JESSELYN MCCURDY,
Legislative Counsel.

VOTE WEDNESDAY, MAY 11—OPPOSE HR. 1279 ''THE GANG DETERRENCE AND COMMUNITY PROTECTION ACT,'' INEFFECTIVE AND COSTLY FEDERAL INTRUSION IN STATE LAW ENFORCEMENT

FEDERALIZES TRADITIONAL STATE CRIMES WITHOUT JUSTIFICATION

H.R. 1279 would federalize all state felonies if related to a ''criminal street gang'' and a host of state violent offenses (whether or not gang-related), thereby significantly expanding the current list of over 4,000 federal crimes (according to a recent Federalist Society report). Traditional state jurisdiction over juvenile matters also would be undermined.

This approach will skew traditional federal law enforcement priorities, undercut the superior efforts of the states to deal with violent crimes and juvenile offenders, and may exceed constitutional limits on federal power.

Even the conservative Heritage Foundation, in recent testimony to Congress, recommended enforcing existing laws rather than passing new ones. Existing federal statutes—including RICO, Continuing Criminal Enterprise and drug trafficking statutes—have been used to prosecute and severely punish gang members, and these laws are more than adequate to prosecute any gang-related offenses that warrant federal intervention.

PROMOTES WIDELY DISCREDITED APPROACHES TO GANG AND YOUTH CRIME

H.R. 1279 does nothing to promote proven effective programs for dealing with criminal

street gangs and youth crimes, such as family and school-based interventions and mentoring programs. The Heritage Foundation provided recent testimony on what measures Congress should support to address the gang problem—including fostering stable neighborhoods, providing after-school activities, and improving local economies—and H.R. 1279 does none of these things.

H.R. 1279 would result in more youth being prosecuted as adults in the federal system despite research showing that youth transferred to the adult criminal justice system are more likely to re-offend than similarly situated youth who remain in the juvenile justice system.

As the Judicial Conference of the United States has stated, ''primary responsibility for prosecuting juveniles has traditionally been reserved for the states,'' and ''the federal criminal justice system has little experience and few resources'' for juvenile defendants.

EXACERBATES RACIAL DISPARITIES AND OTHER SIGNIFICANT FLAWS IN THE CRIMINAL JUSTICE SYSTEM

H.R. 1279 expands three criminal justice policies—mandatory minimum sentences, capital punishment, and youth transfer to adult prosecution—that are discriminatory towards minority communities.

Attached to the new federal crimes are 24 new mandatory minimum sentences, which will transfer sentencing power from judges to prosecutors, prescribe unconscionably severe sentences, and increase unwarranted disparity, including racial disparity. Similarly, H.R. 1279 indiscriminately raises penalties for a wide variety of offenses that have nothing to do with street gangs, ranging from carjacking to regulatory violations (*e.g.*, Clean Water Act).

H.R. 1279 attaches the death penalty to a variety of traditional state crimes and allows prosecutors to forum shop, expanding this error-prone and discriminatory system and flouting community standards regarding the appropriateness of the death penalty for certain crimes.

SOME ORGANIZATIONS OPPOSING H.R. 1279

American Bar Association. American Civil Liberties Union.

Chamber of Commerce of the United States.

Children's Defense Fund.

Commission on Social Action of Reform Judaism.

Leadership Conference on Civil Rights.

National Urban League.

Murder Victims' Families for Human Rights NAACP.

National Council of La Raza.

National Federation of Independent Business.

United States conference of Catholic Bishops.

For more information, including a full list of opposing organizations, go to *www.nacdl.org/Gangs*

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

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

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

I will be asking Members to vote ''no'' on the previous question. If the previous question is defeated, I will amend the rule to allow the House to consider the Capuano-Weiner amendment on the COPS program. This amendment was offered in the Committee on Rules last night but was defeated on a straight party-line vote. This amendment will reauthorize the Community Oriented Policing Services, the COPS program, for the next 3 years. The COPS program, created as a result of the Violent Crime Control and Law Enforcement Act of 1994, focuses on crime prevention at the local level. This program puts law enforcement professionals on the streets and assigns them a beat so they can build mutually beneficial relationships with the people that they serve. By earning the trust of members of their community and making those individuals invest in their own safety, community policing makes law enforcement more efficient and makes America safer.

Mr. Speaker, if we are really serious about stopping the growing gang problem that is occurring in this country, we need to start at the local level, and we need to include prevention as well as enforcement. I know of no better program to meet this worthy goal than the COPS program.

Members should be aware that a ''no'' vote will not prevent consideration of the gang deterrence bill and it will not affect any of the amendments that are in order under this rule. But a ''no'' vote will allow us to add this important amendment that is one of our most effective tools in the war against violence.

Mr. Speaker, as I said at the beginning, if we are truly interested in dealing with the gang problem in this country, we need to do more than pass legislation that sounds tough. We need to have legislation that is tough, that will do the job. We need to do more than a press release here.

I urge my colleagues to vote ''no'' on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately prior to the vote on the previous question.

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

There was no objection.

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

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

As we bring debate on this rule to a close, I must stress the importance of strengthening our communities' efforts against gang crime. Like other forms of organized crime, gangs are at the center of drug violence, identity theft, bank robberies and many of the deadly shootings we read about in the local papers. We need to act in one strong voice to indicate that our laws have a purpose, that our prosecutors and law enforcement officers mean business. Gangs are a national problem, and they will not go away by simply putting them into an arts and crafts program or opening up a gymnasium to let them play midnight basketball. We can prevent the formation of gangs by strengthening our families, and we can deter their crimes by breaking their organization and putting them in jail. Gangs are no longer simply found in the largest cities but have made their way into our rural and suburban communities as well.

Gangs are a problem which need a resolution because the cost is in human lives. One of the more important aspects of the Gang Deterrence and Community Protection Act is mandatory minimum sentencing. With mandatory sentencing, law enforcement will gain leverage over the lower-level gang members, leverage that will put pressure on a gang member to ''roll over'' on their leadership. With cooperation comes the ability to take down an entire gang network, which is the desired effect of this legislation. If there is no threat of doing hard time, there is no incentive to cooperate with law enforcement investigators. In fact, minimal sentencing of much shorter time is often viewed by low-level 16- and 17-year-old gang members as a badge of honor, so-called ''earning your bones.'' They come out of prison in 6 months to 2 years and move up the gang chain of command. Plain and simple, mandatory minimum penalties are an important piece in protecting the public from violent gangs by taking down the system that supports them.

Mr. Speaker, mandatory sentencing, this is not a new concept. In fact, the Child Abduction Prevention Act of 2002 contained 20-year mandatory minimums for child abductions and earned the support of 178 Democrats at final passage. Mandatory minimum sentences were part of the 2003 PROTECT Act, which passed this body by a vote of 400 to 25. The Identity Theft Penalty Enhancement Act contained mandatory minimum sentences, and it passed on suspension. An amendment to the intelligence bill that contained mandatory minimum sentencing to assure appropriate penalties for serious offenses such as possession of atomic, biological and chemical weapons passed 385 to 30. Mandatory minimum sentencing has been widely supported by this House and I believe works to deter crime. Getting tough on crime requires tough and uniform enforcement. We cannot afford to relent in our efforts to deter gang crime and enforce our laws. We need to address this problem while we have the opportunity and before it grows further out of control. We need to invest in new technology, unify our intelligence and strengthen our sentencing so law enforcement will have the tools to get gangs off the street.

Mr. Speaker, I urge support for this rule and passage of the underlying bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my disappointment with the structured rule that has been set forth for debate on H.R. 1279 the ''Gang Deterrence and Community Protection Act of 2005.'' This bill among other things, could subject innocent people to the death penalty, creates numerous discriminatory mandatory minimum sentences, could result in wrongful convictions based on unreliable evidence, and creates more serious juvenile offenders by incarcerating children in adult prisons. These are very serious issues.

Issues that warrant extensive debate and the opportunity to fix these problems before the negative impact is felt. The current rule does not allow for such debate.

Before concluding, I feel it is important that I briefly mention my three amendments that were not ruled in order. My first amendment would have removed Section 110 of the bill. As written in the bill, a prosecutor could bring a capital case in a district that had only a limited connection with a crime. My amendment would have clarified that the defendant must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge. In essence, it would have stopped forum shopping which is currently allowed under the bill.

My second amendment would have deleted Section 115 of the bill which deals with the transfer of juveniles to adult courts. More specifically, the amendment would have prevented the transferring of juveniles from juvenile courts to adult courts when a juvenile has committed an act, which if committed by an adult, would be a felony. If this section is allowed to remain in the bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth.

My third amendment was very straightforward. It would have closed the glaring loophole which currently exists in our federal gun laws by making it illegal to transfer a firearm to any individual that the federal government has designated as a suspected or known gang member or terrorist. As many of you know, under current law, neither suspected nor actual membership in a gang or terrorist organization is a sufficient ground, in and of itself, to prevent the purchase of a dangerous firearm. In fact, according to a recently released GAO report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected gang members or terrorists by the federal government.

In forty-seven (47) of those cases, state and federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information, such as a prior felony conviction or court-determined 'mental defect'. Thus, producing a situation whereby suspected or known gang members were, and continue to be, free to obtain as many guns as they desire.

In closing, these are all very important amendments and were aimed at fixing many of the problems associated with H.R. 1279. Despite the structured rule, I hope my colleagues on both sides will realize the importance of this bill and give it the time and attention it deserves.

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

PREVIOUS QUESTION FOR H. RES. 268—RULE ON H.R. 1279: THE GANG DETERRENCE & COMMUNITY PROTECTION ACT OF 2005

At the end of the resolution, add the following:

''SEC. 2. Notwithstanding any other provision of this resolution the amendment specified in section 3 shall be in order as though printed after the amendment numbered 10 in the report of the Committee on Rules if offered by Representative Capuano of Massachusetts or Representative Weiner of New York or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

SEC. 3. The amendment referred to in section 2 is as follows:

At the end of the bill, add the following new section:

SEC. 2___. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking ''ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—'' and inserting ''USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—'';

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

''(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

''(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

''(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

''(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

''(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

''(B) security assessments;

''(C) security training of personnel and students;

''(D) coordination with local law enforcement; and

''(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

''(5) pay for officers hired to perform intelligence, anti-terror, or homeland security duties exclusively;''; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

''(8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;'';

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking ''subsection (i)'' and inserting ''subsection (g)''; and

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

''(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

''(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

''(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

''(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.''.

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd–1) is amended in subsection (d)(2) by striking ''section 1701(d)'' and inserting ''section 1701(b)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

''(i) $1,007,624,000 for fiscal year 2006;

''(ii) $1,027,176,000 for fiscal year 2007; and

''(iii) $1,047,119,000 for fiscal year 2008.''; and

(2) in subparagraph (B)—

(A) by striking ''section 1701(f)'' and inserting ''section 1701(d)''; and

(B) by striking the third sentence.

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

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

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

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 198, not voting 8, as follows:

[Roll No. 164]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

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

NOT VOTING—8

Berkley
Goode
Hastings (FL)
Hyde
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave

RECESS

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Pursuant to clause 12(b) of rule I, the House will stand in emergency recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 5 minutes p.m.), the House stood in emergency recess subject to the call of the Chair.

□ 1335

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 1 o'clock and 35 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

The SPEAKER pro tempore. The House is continuing the vote on ordering the previous question on House Resolution 268. Members will have 15 additional minutes to continue to record votes on this question. Members who previously recorded their votes may confirm their votes during this period.

This 15-minute vote on ordering the previous question will be followed by a 5-minute vote on adoption of the resolution, if ordered.

□ 1353

Messrs. WYNN, CUMMINGS and DINGELL and Ms. LORETTA SANCHEZ of California changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING THE U.S. CAPITOL POLICE AND SERGEANT AT ARMS OFFICE

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

Mr. DELAY. Mr. Speaker, as we all now know, a short time ago a small aircraft invaded the National Capital air space. The command structure for both the U.S. Capitol and the White House tracked this plane before making a decision to evacuate the Capitol complex at approximately 12:04 p.m.

At the time of the evacuation, Mr. Speaker, the House of Representatives was in the midst of a roll call vote and the House Chamber was ordered cleared in the middle of that vote. In addition to the Members of the House, the Capitol was filled with a number of foreign dignitaries, tourists, certainly staff and congressional pages. The Capitol Police led a rapid, yet orderly, evacuation for all of these people, as well as those who were in the House office buildings.

Mr. Speaker, I just want to commend the Capitol Police and the Sergeant at Arms Office for a job well done. We were all part of that evacuation. It was orderly. The Capitol and the office buildings were evacuated in record time. It went relatively smoothly. I have heard little or no complaints about the evacuation.

I also want to especially commend the employees of this House, those in the office buildings as well as in the Capitol. Everybody evacuated quickly and calmly, and it was a very good operation.

It is unfortunate that we have to live in these times where we have to evacuate the Capitol complex; but we are very pleased and proud of the Capitol Police, of their orderliness under very extreme conditions, their politeness and their calmness and reserve in the way they evacuated these buildings.

From a personal note, as I was going out of the Capitol complex, the Capitol Police were on station and were deployed in a very professional manner. They were acting in a very professional

manner and moved people along in a very rapid manner. So in the event that we do have a catastrophe, many lives would be saved; and we greatly appreciate that.

I also want to say as a side note, Mr. Speaker, that a lot of times we treat these Capitol Police as furniture. Because they are so good at their job, we often do not notice them. I would hope that Members of the House and employees of the House would congratulate each and every officer that they may come across over the next few days and thank them for the good job that they have done. They deserve it. We appreciate their protection, and we appreciate their professionalism.

Mr. Speaker, I feel much safer in the hands of the Capitol Police today than I did yesterday, and I greatly appreciate them.

I also have to point out that there are Capitol Police that are stationed in this building even in the event of a catastrophe, and they showed great courage to stand their posts, knowing that something bad may happen to this building or the office buildings. They do not leave the building. That is incredible courage that we should honor, and we appreciate that courage and that honor. You have to extend that to their families, because their families also know that they are standing in this building with an eventual catastrophe coming and standing their posts like the courageous men and women that they are.

So we greatly appreciate what they have done, the way they have protected the buildings and, most importantly, the people that work in these buildings. You just cannot say enough for how the House appreciates their service.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from California, the distinguished minority leader.

□ 1400

Ms. PELOSI. Mr. Speaker, I, too, want to sing the praises of our Capitol Police and the Sergeant at Arms Mr. Livingood for the expeditious manner in which the Capitol was evacuated earlier today. Thank heavens it was not necessary; better safe than sorry.

But I think that the evacuation took place with dignity in record time and with respect for all in the Capitol, not only the Members of Congress but, very importantly, the tourists who are here, our visitors, the press who covers us, our employees who work here in the Capitol and the office buildings and, of course, the Capitol Police.

Thank you to the Capitol Police. Because of you, Americans or people visiting from overseas can come to this Capitol because of your courage with the confidence that they will be safe. Because of you, this evacuation was conducted in a manner of full cooperation from all who participated. Because of their confidence in you, when you gave the signal, everyone moved exactly the way you wanted them to.

Mr. Speaker, I would also like to add my appreciation to our national security apparatus and all that that involves, for having those airplanes in the air immediately to escort that Cessna to another place. We do not know the full story about it, or I do not anyway, yet, but I do think that they are to be commended for the speed with which they made us safe.

This Capitol is a symbol of freedom throughout the world. And today, I think that the balance between freedom and security was well-demonstrated, and certainly that was because, again, of the professionalism, as our colleague said, and the courage of the Capitol Police, Mr. Livingood and our national security apparatus.

With that, Mr. Speaker, I know that the gentleman from Illinois (Mr. HASTERT) shares our views; I do not know if he can even speak from the chair, but I have heard the gentleman express his appreciation individually and personally to them, too, and I want to add my voice to that.

Mr. DELAY. Mr. Speaker, reclaiming my time, I appreciate the words of the Minority Leader, and she is absolutely right on. I just would finish by saying, people need to realize, because there are already critics on television, it is amazing; but people need to realize that very serious decisions have to be made in times like these: A decision to scramble the jets, a decision to shoot the flares, a decision to shoot the plane down or not and a decision to evacuate the building when that plane is only 3 to 4 minutes away from this building. Those are very critical decisions that have to be made, and we appreciate the people that have made those decisions and made them properly and protected the lives and property of the Capitol.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1279 to be considered shortly.

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

There was no objection.

GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

The SPEAKER. Pursuant to House Resolution 268 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1279.

□ 1403

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes, with Mrs. MILLER of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

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

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

Madam Chairman, I rise in support of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. This bill is a forward-looking and comprehensive approach to a growing national threat: violent and vicious criminal gangs in our communities.

According to the last National Youth Gang Survey, there are now between 750,000 and 850,000 gang members in our country. Every city in the country with a population of 250,000 or more has reported gang activity. There are over 25,000 gangs in more than 3,000 jurisdictions in the United States.

Criminal gangs are no longer just a local problem. In recent years, gangs have become nationally-organized criminal syndicates. They are disciplined criminal enterprises with leaders, managers and employees, with training and structured associations, many of which are now international in scope. They are dedicated to enriching themselves through criminal activity and terrorizing our communities. The law-abiding public and State and local law enforcement have sent us a strong message: Act now and stop the scourge of violence in our communities.

This legislation has four broad and significant purposes. First, the bill authorizes the creation of anti-gang task forces that will bring together Federal, State and local law enforcement to conduct complex and significant gang prosecutions and provide a national infrastructure for the sharing of gang information nationwide. Second, the bill creates a new gang crime statute, akin to the RICO statute, that addresses specific techniques and criminal strategies used by the gangs. Third, the bill increases penalties and clarifies several existing statutes for crimes typically committed by gangs. Fourth, the bill adopts a limited measure to permit Federal prosecutors to charge 16- and 17-year-olds in Federal court without going through a lengthy and outdated transfer procedure. Current law has hindered law enforcement efforts to incapacitate violent 16- and 17-year-old gang members in aggravated crimes of violence.

I would like to underscore one important aspect of this bill. It adopts new

mandatory minimum penalties that address the seriousness of violent crimes committed by gang members. For kidnapping, maiming and aggravated sexual abuse, gang members will be subject to a 30-year mandatory minimum. For assaults resulting in serious bodily injury; that is, nearly killing or permanently disabling a person, gang members will face a mandatory minimum of 20 years, and for all other gang crimes, gang members will face a 10-year mandatory minimum penalty.

The mandatory minimums contained in this legislation are carefully tailored to deter and disrupt violent gang activity as swiftly as possible. These mandatory minimum penalties reflect Congress's duty to ensure that violent gang members are consistently and fairly incarcerated. Further, prosecutors and law enforcement will tell you that in the absence of mandatory guidelines, such penalties are the only way to secure the cooperation of lower-level gang members who have critical information about the tightly-knit gang structure and gang crimes to testify and cooperate against higher-level gang members who typically insulate themselves from the day-to-day criminal activity. Gang members who wish to avoid the mandatory minimum penalty can do so by freely and willingly deciding to cooperate against other gang members.

Madam Chairman, I wish to take a minute to underscore the support for this measure from law enforcement, and by that, I mean the brave men and women who are on the streets every day putting their lives on the line to fight the gang epidemic in our country. Since this measure was introduced, we have received strong letters of support from organizations representing State and local law enforcement agencies across our country, including the Fraternal Order of Police, the National Sheriffs Association, the National Association of Police Officers, the National Latino Peace Officers Association, the National Troopers Coalition, the Major County Chief Association, the Law Enforcement Alliance of America, the Association For Los Angeles Deputy Sheriffs, the District Attorney for New Orleans, the California Gang Investigators Association and the International Union of Police Associations.

When law enforcement speaks with such a clear and unanimous voice, we have a duty to listen, to act now and to give their members the tools and resources they need to fight and win this battle on behalf of America's law-abiding citizens.

I want to thank my two colleagues, the gentleman from Virginia (Mr. FORBES) and the gentleman from Virginia (Mr. WOLF) for their strong and committed leadership on this issue. They have dedicated both time and effort to H.R. 1279 and should be commended for their focus on combating this disturbing national trend.

I urge my colleagues to support this vital public safety legislation. Tough, determinate sentencing policies have worked to reduce crime in the last 20 years, and now, we are facing a new challenge. Gang violence is a growing national scourge that requires a tough and measured response. Stiff penalties and additional resources to law enforcement will send a clear and unmistakable message to the violent criminal gang members that their conduct will no longer be tolerated.

I urge my colleagues to support this legislation.

Madam Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Chairman, I rise in opposition to the bill, and I yield myself such time as I may consume.

Madam Chairman, it is unfortunate that we are again debating how to reduce juvenile crime and violence. Rather than following through on the proven crime and violence prevention techniques that work, we are back to tough-talking sound byte policies that have been proven to not only fail to reduce crime but actually increase crime, waste taxpayers' money and discriminate against minorities. Seven years ago, it was the Violent Youth Predator Act. Now it is the ''Gang Busters'' bill, with the same array of poll-tested sound bytes: trying more juveniles as adults and mandatory minimum sentences. The bill includes mandatory life or death penalties, even for unintentional acts.

This bill is in no way like the bill we developed a few years ago on a bipartisan basis to address youth crime and violence following the dark days following the Columbine school shootings. That bill was cosponsored by all of the members of the Subcommittee on Crime and was based on combined wisdom and expertise of law enforcement, juvenile court judges, administrators, researchers, criminologists and juvenile justice advocates along with the entire political spectrum.

All of the Hastert-Gephardt Task Force members called witnesses to let us know what we should do to reduce crime and violence amongst juveniles. Not a single one of those witnesses said we needed to add more Federal mandatory minimum sentences. Not one mentioned the death penalty. Not one said anything about trying more juveniles as adults. Not one. The fully bipartisan bill we developed from recommendations of those experts was full of collaborative efforts between Federal, State, and local officials aimed at addressing the problems caused by young people and addressing them early, focused on prevention and keeping them out of trouble to begin with. And when they first get in trouble, intervene early and provide sufficient sanctions and services to get them back on the straight and narrow. Further, if they do come back, hit them with graduated sanctions and services to the extent required to address the problem, including keeping them away from or getting them out of gang activities. At that time, as now, we can try juveniles as adults as early as 13-years old and sentence them with harsh sentences when they commit serious, violent offenses, both at the Federal as well as the State level.

So make no mistake about it: The children affected by this bill will be those children whose roles in gang crimes are minor or fringe, because we are already trying youth who commit serious violent offenses as adults and locking them up for long periods of time. It is the lesser offenders, the children who get in fist fights, committing misdemeanors, who will be subject to the 10-year, mandatory minimum numbers in this bill. Those who commit murder or rape or chop off hands with machetes or even conspire to do that are already subject to life sentences. So the 10-year mandatory minimums will be the friends who get in fights.

Madam Chairman, we already lock up more people than anywhere on earth: 714 per 100,000, way above whatever is in second place, way above the national average of 100 per 100,000. In fact, whereas there is 1 out of 63 white youth 25- to 29-years old in jail today, we lock up one out of every 8 African-American youth in jail today. This bill, with all of its discriminatory policies, will only add to that disparity. And for what? A long line of studies conducted by the Department of Justice and crime researchers have consistently told us that treating more juveniles as adults will increase crime and violence.

□ 1415

The Coalition of Juvenile Justice study, ''Childhood on Trial,'' coincidentally released the same day as this bill was introduced, covers thousands of cases over a long period of time and confirmed that adult treatment of more juveniles increases crime and violence and is discriminatory in its application. That is primarily because if the judge finds a person guilty in adult court, his only possibilities are lock the child up with adults or let them walk on probation or parole. If they get locked up with adults, they will obviously come out worse than they went in. And so the studies show that if we increase the number of juveniles tried as adults we will not only increase crime, but we will increase violent crime.

Now, this bill not only includes provisions to try more juveniles as adults. It also includes more mandatory minimums. We know from all of the credible research, mandatory minimum sentences are the most costly and least effective way to address crime. As compared to intelligent approaches, like having the worst offenders get the most time and lesser offenders get less time, or drug treatment for drug-addicted offenders, mandatory minimum sentences have been shown to waste money and discriminate against minorities. That is why the Federal Judicial Conference has told us time and time again that mandatory minimum sentences violate common sense.

We also know that the death penalty is not only flawed, but is disproportionately applied to minorities and the poor. It also does not reduce crime. Some 199 people have been freed from Death Row over the last 10 years because they were innocent of the crimes for which they received the death penalty. Now, until we fund the innocence protection provisions we passed last year, we should not be passing new death penalties.

But unfortunately, despite all of our agreement and progress, we have failed in the most important aspect of our prior work, and that is to provide adequate funding for the initiatives that we passed. The most money we have ever been able to get appropriated for the juvenile justice bills was $55 million a year, about one-tenth of what was necessary. We are, in fact, cutting funding for these programs in our budget, and also cutting money for local law enforcement. And this bill provides nothing for prevention, nothing for early intervention, and virtually nothing in the bill goes to local law enforcement. It all goes to Federal prosecution and incarceration. Instead, almost $400 million in the bill will go to the Federal prosecutors and possibly billions to locking up people under the long mandatory minimum sentences.

Madam Chairman, we have a choice in crime policy. We can play politics, or we can reduce crime. And we know what to do to reduce crime. All the researchers have told us. In fact, a few weeks ago I met with some students at Monument High School in South Boston, Massachusetts, and I told them about this upcoming hearing we were having on the gang bill, and I asked them what did they think needed to be done to keep kids out of gangs. They said, kids join gangs for reputation, protection, to feel wanted, to have friends, and to get money. And what is needed to prevent them from joining gangs was ample recreation for boys as well as girls, jobs and internships for training and money, and assistance to allow their families to live in decent homes.

Recently, I met with law enforcement officials in my district, and they had similar advice. Neither group said anything about the need for more mandatory minimums, trying more juveniles as adults, or new death penalties. None of them asked us to waste money on these programs.

But we took their advice a few years ago and actually started the process for doing what was necessary to reduce crime: prevention and early intervention. But we did not finish the job of funding the programs. We should fund juvenile justice prevention programs, early intervention programs, and local law enforcement instead of passing this bill.

Madam Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Chairman, I yield 4 minutes to the principal author of this bill, the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Madam Chairman, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership in this area and for bringing this bill to the floor.

I rise today in support of this bipartisan bill, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. And in the limited time that I have, I just want to raise three points. The first point is that throughout the debate today, you will hear two different worlds described about gangs. One world they will describe in gangs will be talking about antisocial behavior and fist fights. If you think that is what we are concerned about with gangs, then we should not be here today at all talking about this bill.

But the true world, when you talk about gangs, are that you are having a rise in gangs in the United States where today, as we debate this bill, there are between 750,000 and 850,000 gang members within our borders. If it was a foreign army, it would be the sixth largest army in the world. And these are the acts in the real gang world: machete attacks, witness intimidation, extortion, murder of Federal agents, rape, cutting off arms, fingers and individuals' heads.

So the second point is, why can we not just deal with these acts with current State laws? Well, this chart shows just one member of one gang and all of the activities that he had in traveling around the United States. Today, these gangs have become national and international in scope; and if we want to truly deal with gangs, there is only one way to do it: you have got to bring down the gang networks and the gang leaders. And this bill will do that.

Now, our friends who are opposed to this bill say let us just deal with it crime by crime and individual by individual. And that works if it is just an individual committing a crime, because once you get that person and put them in jail, the crime stops. But when you are talking about gangs, when you deal with just one crime from a lower-tier person in that gang and you get that person and prosecute him, 20 different acts were never caught. And when you get that one person from a gang and it is an organized effort, 20 more spring up in their place.

We need a system to bring together teams of Federal, State, and local law enforcement so that we can go after that network and bring them down. And I would just ask you to look at a single situation where local or State law enforcement has been able to reach up to these national and international gangs and bring down the gang network.

The other thing that I want to say that you will see today, and we heard it earlier, and I was absolutely shocked when I heard it, but the opponents of this bill literally said on the floor earlier this morning that giving arts and crafts to criminal gang members who committed violent crimes would do more than the provisions of this bill, which is to lock them up and to empower law enforcement to go after them.

And I want to just say, because you hear a lot of talk about people who met with a group of students here, or maybe a group of people over here, this is a list that the chairman read out earlier of virtually every major law enforcement organization in the United States who supports the provisions of this bill and realizes if we do not pass this bill and bring down the gang networks, you might as well put a big billboard out that says, ''Coming soon to a neighborhood near you,'' because that is what is going to happen with the rapid rise of these gangs.

And I hope that this House will stand up today, will vote to give law enforcement the tools they need, and that we will go after these networks and bring them down.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 1 minute just to say, first of all, that my distinguished colleague from Virginia and I will be working together later this week if they try to close any military bases. But on this bill we, unfortunately, have to disagree.

First of all, Madam Chairman, murder, rape, kidnapping are already illegal in every State. Interstate gang members can be caught by RICO and organized crime, continuing criminal enterprise, FBI is already working on that. But this bill contains a provision that fist fights can subject young people to 10-year mandatory minimums.

The after-school programs that have been disparaged are the kinds of things that will actually reduce gang involvement. You can disparage them by calling it arts and crafts for gang members. But if you ask the researchers what will actually make a difference, it is those after-school programs to give the kids constructive things to do with their time.

Madam Chairman, I yield 4 minutes to the gentleman from California (Mr. SCHIFF), a former prosecutor.

Mr. SCHIFF. Madam Chairman, in February of this year, I introduced bipartisan legislation with the gentlewoman from California (Mrs. BONO), the Gang Prevention and Effective Deterrence Act of 2005. The Schiff-Bono bill represents a comprehensive effort to increase gang prosecution and prevention efforts in order to crack down on criminal street gangs. The bill is virtually identical to bipartisan legislation that was reported out of the Senate Judiciary Committee in the 108th Congress and has since been reintroduced by Senators FEINSTEIN, HATCH, KYL, CORNYN, and GRASSLEY.

Madam Chairman, the bipartisan Schiff-Bono anti-gang bill had three core objectives. First, it created a RICO-like statute specifically tailored to street gangs in order to bring these networks down in the same way we bring down organized crime through RICO. Second, our legislation increased

a host of gang and violent crime penalties in order to deter and punish illegal street gangs. And finally the Schiff-Bono bill included important funding for prevention and intervention efforts in order to attack the gang problem at its roots.

The sponsor of the bill before us today has spent much time on highlighting the groups that have supported his bill. The Schiff-Bono and Feinstein-Hatch bills are also endorsed by these groups and a host of other law enforcement organizations. With all due respect to my colleague from Virginia on the opposite side of the aisle, the most significant difference between the bill I introduced prior to the bill that is now before us is that all of the prevention funding in the Senate bill and in my own bipartisan bill has been stripped out of the anti-gang measure, and all we are left with is the deterrence.

Unfortunately, Madam Chairman, the committee leadership rejected the opportunity to address this national problem in a bipartisan fashion. Instead, the majority introduced the bill before us today after our bill was introduced that essentially increases the same penalties that our bill increases, but instead via mandatory minimums. The bill also remarkably cuts out the bipartisan provisions devoted to expanding and enhancing community-based and law enforcement prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

These prevention and intervention provisions are largely law enforcement in nature. And, Madam Chairman, I want to point out these provisions that have been stripped out of my bill that are in the present form in this bill have the support of law enforcement. Law enforcement does not support removing those from the legislation. They are also part of the bipartisan bill in the Senate sponsored, as I mentioned, by Senators HATCH, FEINSTEIN, CORNYN, GRASSLEY, and KYL. Members from both sides of the aisle recognize that a complete approach to addressing the problem of criminal street gangs must include prevention and intervention measures that attack the problem at its roots.

Yes, we need deterrence as my bill provided. But we need prevention as well. And, unfortunately, I think it is quite clear that this body is no longer in the business of legislating, but rather of leveraging. The legislation before us today is merely an attempt to leverage the Senate. It will not come back in this form, and I intend to oppose it today in the hopes that we will get a better bill coming back from the Senate, as I am confident we will.

Madam Chairman, when I took office in the California State Senate, I introduced a host of anti-crime measures as, indeed, I have done here.

At the same time, I realized then, as I realize now, that we also have to take steps to intervene immediately and address juvenile crime at its roots and try to prevent young people from getting into trouble. And this, I think, is the fundamental issue before us. We can pay now, or we can pay later. A small amount to preventive funding that we invest now saves us a lot on the back end.

Madam Chairman, in my home State of California, when we incarcerate a juvenile, it costs us $90,000 a year. Investing a small amount on the front end in time-tested and true programs that keep kids out of trouble makes infinite sense, both in terms of dollars saved and in terms of lives saved.

And my hope, Madam Chairman, because my amendment to restore this funding was not allowed by the Rules Committee, we were not allowed to put it to my colleagues on the House floor for a vote, I hope, Madam Chairman, it comes back from the Senate in a form that we can both support on both sides of the aisle.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 30 seconds. Madam Chairman, I deeply respect the arguments that have been advanced by the gentleman from California (Mr. SCHIFF). He put forth his proposal in committee, and it was defeated on a rollcall vote of 3 ayes to 22 noes. So the Schiff proposal did not even carry a majority of the Democratic members in the committee, let alone the Republican members.

Madam Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF), who is also a sponsor of this bill.

Mr. WOLF. Madam Chairman, let me begin by thanking the gentleman from Virginia (Mr. FORBES) for doing this. And every Member of this House on both sides should thank the gentleman. And I thank the chairman and the staff of the Judiciary Committee for moving this legislation.

March issue of Newsweek: ''They are a violent force in 33 States and counting. The most dangerous gang in America, MS–13.''

They killed 10 people in Northern Virginia. And I will tell the gentleman from Los Angeles, they have killed a number of people out in your area too.

There was a Washington Post editorial about this and a story where it talks about a young parent. The eldest son, age 15, was sitting on the steps of a nearby apartment with two friends when he was gunned down. The friends were wounded, but survived. The son was killed almost instantly. The mother remarked, we moved here to get away from the gangs.

The brutality of these gangs. They took Brenda Paz, who was in the Witness Protection Program down to the Shenandoah Valley and slashed her throat to where her neck was cut all the way almost through, and stabbed her 16 times.

□ 1430

They prey on the poor. They prey on the poor in the inner cities. They prey on the poor in Culmore. I have said, the people of Culmore and the people of the inner city have just as much right to live in the upscale neighborhoods where they may not be.

This is a good bill. And when we protect the most vulnerable in our society, we protect everybody. I have talked to the community in different areas of my district and in Culmore through this region. They live in fear. And I say whether you have been in this country for 50 years and are wealthy or whether you have been here for 50 hours and you live in an area where you are trying to work your way out, you deserve the right to be protected. And the bill by the gentleman from Virginia (Mr. FORBES) protects the poor.

This bill protects those who are being preyed upon. And I hope and I pray, on behalf of Brenda Paz who was stabbed 16 times and the families that live in Culmore and the families that live out in L.A. and the families that live in Houston, and the families that live throughout the State of Virginia that are suffering with this, that this bill passes overwhelmingly and goes on to the Senate, and they pass it so we can finally get relief, not for the wealthy but for those who live in Culmore and the inner city, who, up until this time, have been forgotten by this institution.

Finally, with the Forbes bill, this will do more to help them.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 30 seconds.

If the bill passes or does not pass, it will still be illegal to stab someone 16 times. What we ought to be looking at are the kinds of initiatives that will reduce the chances that that will happen again.

Giving a 10-year mandatory minimum for a second offense fist fight is not going to reduce the chance that someone will be stabbed 16 times when you are not funding any of the programs that are desperately needed to actually reduce juvenile crime.

Madam Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Madam Chairman, I thank the gentleman for yielding me time.

I want to respond very briefly to the chairman's point. I have the greatest respect for my chairman as well.

Yes, it is true that the Feinstein-Hatch amendment that I offered in committee did not enjoy broad support on either side of the aisle. Some on my side of the aisle thought the sentencing enhancements in this bipartisan legislation were too strong and could not support it. But the other amendment, Madam Chairman, that I offered that would simply reinstate all the preventive funding, all of the proactive funding in the bill, that was rejected by every Republican member of the committee. Not a single GOP member of the Committee on the Judiciary would support the prevention funding in committee. And we do not have the ability to raise that issue on the House floor.

It is my earnest hope, however, that in conference with the Senate, which I hope will insist that we not only have a back-end strategy for dealing with the crime problem of gangs but that we have a front-end strategy as well and that we will have the chance to address this again in conference committee, and that funding will be restored.

Mr. SENSENBRENNER. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Chairman, I rise in strong support of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. I want to thank the distinguished gentleman from Virginia (Mr. FORBES) for his hard work on this very critical issue. I also want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in this area as well.

Gang violence is taking over too many of our communities. What was once thought to be an urban problem has now moved into many suburban and even rural areas, leaving virtually every community and every child in them vulnerable. Sadly, too many children are turning their backs on beneficial extra-curricular activities and turning to the world of guns and drugs and violent activity in order to gain entry into or move up or just maintain status in a gang.

In order to gain entry into these things, this legislation is absolutely critical. And for those who have avoided being seduced by gang life, they are too often held hostage in their homes for fear of being the next victim or the unfortunate one who may witness a gang act and who may later be called upon to testify, and they are often times in fear of their life when that happens.

In my district, the first district of Ohio which includes the City of Cincinnati, the 22 homicides that have occurred as of March put the city on pace to exceed the record number, 75 homicides that occurred back in 2003. Many of our city officials and law enforcement point toward gang activity centered on drug trafficking as the source of this increase.

We cannot allow gangs to control our communities. We must give law enforcement the tools to fight back. H.R. 1279 would help to accomplish this in two ways: It would establish new stronger gang and violent criminal penalties as well as strengthen existing ones to deter the acts of violence commonly associated with these gangs. Most importantly, H.R. 1279 gives our communities the resources to attack the gang problem from all levels.

H.R. 1279 ensures that local State and national law enforcement work together to stop gangs and to make our communities finally safe as they ought to be. Our communities cannot fight gangs alone.

I would strongly urge my colleagues to support this important piece of legislation to ensure that we have a coordinated effort in all levels of government. I want to again thank the gentleman from Virginia (Mr. FORBES) for his leadership in this area.

Mr. SCOTT of Virginia. Madam Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS of South Carolina. Madam Chairman, I thank the gentleman for yielding me time.

I rise reluctantly because rarely do I oppose a majority bill. In this case, however, as I expressed in the Committee on the Judiciary, I think there are three problems with the bill: First, it federalizes State crimes. Second, it spends too much money. Third, it has mandatory minimums.

I voted for mandatory minimums a number of times in my previous time in Congress, and then I had 6 years out, six years out to talk with people in the community, to talk with judges. And during that time, I became very uncomfortable with our approach about mandatory minimums.

We have sentencing guidelines. The idea of those guidelines is to have a coherent system of sentencing, some method of figuring out how heinous one crime is compared to another. And then Congress comes along and slaps on mandatory minimums on top of that framework, doing violence to the framework of a sentencing guideline system. I think it is a mistake.

Like I say, I voted for them in the past. I will not do it again. I am inclined to say, let us have a sentencing guideline system that works. Let us not, because of some political considerations, rise and go after say crack cocaine as opposed to powdered cocaine and end up with perverse results, which is somebody rotting in jail because they smoked the wrong kind of cocaine. It is an unjust result. It is something we should resolve in this body to avoid.

I think we have an opportunity to improve this bill. I will be supporting some of the amendments the gentleman from Virginia (Mr. SCOTT) will be offering. It is another opportunity to try to improve it.

I appreciate the gentleman yielding me time.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. POE).

Mr. POE. Madam Chairman, I spent 22 years as a judge in Texas trying criminal cases, felonies; 22,000 felony cases came through my court. They dealt with everything from major theft to capital murder cases. And a lot of those cases were gang cases. And the people in this country who believe and think that gangs are not a problem are sorely mistaken.

It was the action operative of the gangs in the Houston area to use juveniles to commit serious crimes, violent crimes, because those very juveniles and these gang leaders knew that juveniles would be treated differently, as they were. These gangs would almost laugh at the criminal justice system because the juveniles would not face the same type of punishment as adults.

This portion of the bill that treats juveniles in some cases the same as adults is a good idea, because, in our country, victims continue to be discriminated against based on the age of offenders. Those days need to end, especially with gang members.

This is an important issue.

I, too, like the previous speakers are concerned about whether this is a States' rights issue or not. But gangs cross State lines. No longer are they just a local terrorist community. And they are terrorists, Madam Chairman. We, at this time, are engaged in a war against international terrorists. We need to be concerned about the street terrorists who roam our neighborhoods and commit violent crimes in the name of some type of gang.

A specific powerful enemy to the United States is the MS–13 gang. We need to be concerned about them because they are a terrorist group. They are gang members. So the first duty of government is to protect its citizens. We do that abroad. We need to do it against those street terrorists that live among us.

I support this bill.

Mr. SCOTT of Virginia. Madam Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the distinguished gentleman for yielding me time.

I rise to acknowledge, Madam Chairman, that gang violence poses a problem in America. Coming from the community that I come from in Houston, we have had some tough times with gang activities, and we have been successful in eliminating or steering young people away from that gang violence.

Just recently, of course, as the ranking member on the Subcommittee on Immigration, we have had hearings on the MS–13 gangs. And I reached out to my community in Houston to determine the influx of those gangs. Those gangs are particularly focused in South and Central America. Many of the individuals are undocumented aliens that become engaged in that activity in California and places along the border.

So I believe that we should have a comprehensive approach and look at this particular crisis, but at the same time, when I say comprehensive, I would suggest balanced.

The concern I have of H.R. 1279 is that the bill and the legislative approach is not balanced. From the early time of my career, I recall that we have on the Committee on the Judiciary reached out, those of us who were Democrats to reach out on this question of intervention. In fact, the first term that I was here, we did a national tour, if you will, national meetings of the Subcommittee on Crime.

My colleague who is now the ranking member joined me on that, the gentleman from Virginia (Mr. SCOTT),

where we traveled across the Nation to talk about the importance of intervention on gang and juvenile crime activities. In fact, out of that came a legislative initiative, the aspect that I worked on was mental health intervention, mental health treatment, which we found to be very effective.

In fact, during that time, my late colleague, a very committed former Senator Paul Wellstone, who we tragically lost in an airplane crash, came to my district and visited the juvenile detention centers. We saw the sadness and the plight of those young men. Some, yes, had perpetrated heinous acts, and they were detained, or they were incarcerated. But we also saw the hopeless and those who did not have a good family situation, those who had no intervention, those who were not given the kind of educational structure that they needed.

This legislation unfortunately does not meet that balance-comprehensive test. For example, something that I find particularly troubling is the provision that the Attorney General can charge a juvenile 16-years old or older as an adult for certain violent crimes and prohibits judicial review of the Attorney General's decision.

This is not to suggest that that decision might not be confirmed or affirmed, but here we are talking about a 16-year old, and we do not know the circumstances of that violent act, the previous history of this 16-year old, and the Attorney General does not get subjected to the checks and balances of that the Constitution allows us to have, which is judicial review of that kind of difficult decision.

I cannot imagine, Madam Chairman, that we would have a bill that would not have those kind of protections.

I had an amendment that was not made in order in particular that dealt specifically with the question of illegal transfer of a firearm to any individual the Federal Government had designated as a suspected or known gang member or a terrorist. It established a system whereby any individual inadvertently included on the gang terror watch list may have his or her name removed. So there is a question of mistaken identity. There is a question of a big sweep and adding people's names to the list.

We saw that with the Pakistani registration lists after 9/11. Sweeping up large numbers of people from the Pakistani community, and as I understand, not one single person on that list was found to be a terrorist. And it was stopped when the Members of Congress raised their voices.

The mandatory sentencing, and I am delighted of the position of the gentleman from South Carolina (Mr. INGLIS), I think that this Congress should address that separately. And I have, in fact, written bills that have enhanced sentencing on particular notorious or vicious acts.

□ 1445

I think that is appropriate; but a blanket, mandatory sentencing that does not deal with the fact that you are looking at juveniles, some U.S. citizens, some not, really begs the question.

So if we are going to look at terrorism, we are going to look at gang activity, we have to realize that still children are involved; and we must have this comprehensive approach, because we are already known as the world power with the largest number of Americans and others incarcerated. Yes, incarcerate those who have been tried and convicted fairly for heinous acts and other acts; but we have a record of incarcerating people for long, long years way beyond the time that it does anything other than pack the prisons and deny families of their loved ones and the ability of young people to be educated and to have an alternative life.

This bill leaves a lot to be desired, and I hope we can go back to the drawing boards and actually fix it and have a comprehensive approach to fighting gang violence and, of course, gang involvement.

Madam Chairman, I rise today in opposition to the legislation before the House today, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. As Founder and Chair of the Congressional Children's Caucus, I undoubtedly recognize the need for us to legislate to create protections from the danger and violence produced by gangs. However, before we haphazardly amend the law to add excessive and egregious mandatory minimums and other penalties that apply to groups of people or young groups of people, we must clearly define the acts that we seek to penalize. That is the essence of crafting law that is "narrowly tailored" and that does not suffer from overbreadth.

This bill is unnecessary because federal prosecutors have statutes such as the Continuing Criminal Enterprise (CCE) and Racketeer Influenced and Corrupt Organizations Act (RICO) to prosecute gang crime. Recent Supreme Court jurisprudence strongly suggests that this bill would exceed Congressional authority under the Commerce Clause.

H.R. 1279 unreasonably an unjustifiably removes judicial review of a prosecutor's decision to try a youth as an adult. Current law requires an in-depth review of multiple considerations by a federal judge of whether such a transfer is in the interest of justice. This policy is unwise and will increase federal prosecution of youth for minor offenses. Presently, in both federal and state courts, juveniles who commit the most serious violent crimes are almost certain to be transferred to adult court through use of a judicial waiver. In effecting transfer to adult court, judicial waivers, as opposed to legislative or prosecutorial waivers, are the most common type of waiver device used. That is, the juvenile court judge decides whether or not to waive jurisdiction to adult court. However, Section 115 of H.R. 1279 takes the waiver decision out of the judge's discretion.

As the Judicial Conference of the United States aptly suggests, Section 115 "could result in the federal prosecution of juveniles for myriad offenses." Equally alarming, the legislation removes the current prerequisite that the transferred child have a prior conviction for an offense that would be a serious violent felony if committed by an adult. Thus, a prosecutor could unilaterally decide to transfer a youthful offender with no prior criminal record who commits a simple drug trafficking offense, with no judicial review of whether such transfer serves the interests of justice. Moreover, a move toward federal prosecution causes us great concern because as the Judicial Conference acknowledges, "juvenile offenders require different and perhaps more extensive correctional and rehabilitative programs than adults and there is not a single, federal correctional facility to meet these needs."

H.R. 1279 simply takes the wrong approach. Instead of focusing on correctional and rehabilitative programs, it attempts to throw more youth in crowded adult prisons where these programs are lacking. H.R. 1279 reflects the politics of crime where you come up with a good slogan such as "the gang busters" bill and codify it. Until H.R. 1279, the Judiciary Committee had made great progress toward putting aside the politics of crime in favor of sound policy in the area of juvenile justice. I believe in fighting terrorism but not without a thoughtful approach.

AMENDMENTS THAT WERE NOT MADE IN ORDER

I would like to thank the Gentlemen from Massachusetts, Mr. MCGOVERN for his austere words in support of the amendments that I offered at the Committee on Rules yesterday but were not made in order. These amendments were very substantive, as were those of my colleagues that were also denied debate.

My first amendment would have struck Section 10 of the bill. As written in the bill, a prosecutor could bring a capital case in a district that had only the most tangential connection with the crime. This amendment clarifies that the defendant must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge. For example, if a murder occurred in Massachusetts with a gun stolen from Mississippi, the homicide case could be prosecuted in Mississippi. This allows prosecutors to forum shop and pick the location where they think they are most likely to be able to obtain a death sentence.

Studies of the federal death penalty show that a person prosecuted in Texas is much more likely to be charged, tried, and sentenced to death in a capital case than a person who is prosecuted for the same crime in Massachusetts. This bill will exacerbate these geographic inequities that exist in the federal death penalty system. The wide range of discretion in both what to charge and where to bring the charge will give prosecutors tremendous latitude to forum shop. This broad discretion will increase the racial and geographic disparities already at play in the federal death penalty.

My second amendment would have struck Section 115 of the bill which deals with the transfer of juveniles to adult courts. More specifically, my amendment will prevent the transferring of juveniles from juvenile courts to adult courts when a juvenile has committed an act, which if committed by an adult, would be a felony. If this section is allowed to remain in the bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered

by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by a judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth.

My third amendment would have closed a glaring loophole which currently exists in our federal gun laws by making it illegal to transfer a firearm to any individual that the federal government has designated as a suspected or known gang member or terrorist. As many of you know, under current law, neither suspected nor actual membership in a gang or terrorist organization is a sufficient ground, in and of itself, to prevent the purchase of a dangerous firearm. In fact, according to a recently released GAO report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected gang members or terrorists by the federal government.

In forty-seven (47) of those cases, state and federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information, such as a prior felony conviction or court-determined 'mental defect'. Thus, producing a situation whereby suspected or known gang members were, and continue to be free to obtain as many guns as they desire.

Admittedly, section 114 of the underlying bill offers increased criminal penalties for the use of a firearm in a gang-related crime. However, "after the fact" criminal penalties are often of little use to victims and their loved ones. And, if we really want to curb this growing problem, we have to do something to prevent these individuals from gaining access to these dangerous weapons in the first place.

Madam Chairman, again, I oppose this legislation and urge my colleagues to join me.

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

Madam Chairman, I have been here for a number of years; and when you are against a bill, you can come up with a million and one reasons why the bill should not pass. We just heard some of that; but if we do not do anything, the killings are going to continue.

We can have a legitimate disagreement on mandatory minimum sentences, but I think there are some crimes that are so severe and eat away so much at the roots of our society and the fabric of our society that those who are convicted of those crimes ought to be locked up and locked up for sure, because only with a certain jail term are we going to be able to punish those who have killed people in the most brutal manner and deter those who might be thinking of doing it to others in our society.

I have here an April 26 story from the Associated Press, dateline, Houston: ''Violent gang linked to nine Houston area killings.'' I am not going to read the whole story on the floor, but I am going to read one paragraph of this story to show that those who wish to delay this bill because it has a mandatory minimum or because it does not do enough social work are wrong:

''Harris County Sheriff's investigators arrested five members of Mara Salvatrucha,'' which is MS–13, ''in connection with the shooting death of 18-month-old Alden Naquin, who was trapped in his car seat April 12 when a man opened fire on a car driven by his father, Ernest Naquin.''

I think if someone is convicted of murdering an 18-month-old in that circumstance they ought to be locked away for sure and for a long time. I am sorry people disagree with that, but I hope that this bill passes.

Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FITZPATRICK).

Mr. FITZPATRICK of Pennsylvania. Madam Chairman, I thank the gentleman from Wisconsin for the time.

I rise today in strong support of H.R. 1279, and I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership in bringing this bill to the floor for a vote today.

Madam Chairman, gang violence is on the rise across the United States. Areas once thought safe harbors from crime are now under the threat of expanding gang violence.

My district is not home to a center city area. It is considered a suburban area. Bucks County is a quiet pastoral suburb of the city of Philadelphia, an area bordered by farms to the north, business centers to the south, residential areas to the west, and the Delaware River to the east. However, the majority of crime in my district takes place in a very small, concentrated area.

But the people of Bristol, Bucks County, are taking the lead in cleaning up their streets. The hard work of Don Billingsley and other neighbor leaders have made Bristol a shining example of the Department of Justice's Weed and Seed initiative to take back neighborhoods from crime. However, Bristol is under threat from gangs migrating from cities just across the river in New Jersey.

Madam Chairman, three things are needed to make sure gangs do not infiltrate areas like Bristol: people, money, and strong anti-crime laws. Well, in Bristol, we have the money and we have financial resources through the Weed and Seed program, but what we need are strong laws. H.R. 1279 is the bill that would dissuade gangs from taking up shop in my district.

Gang violence is an issue that must be dealt with immediately. The House Committee on the Judiciary reports that over 631 gang-related homicides occurred in 2001, perpetrated by an estimated 750,000 active gang members. Gangs are directly linked to narcotics trade, human trafficking, identification document fraud, violent maiming, assault and murder, and the use of firearms to commit deadly shootings; but the problem does not stop there.

Organized crime syndicates like the ultra-violent MS–13 have reportedly agreed to smuggle terrorists over our southern borders. This is now a homeland security issue.

H.R. 1279 will apply a RICO-type approach to prosecuting modern street gangs. At the heart of this bill are provisions that allow prosecutors to go after the gangs as an enterprise. Rather than trying to shoehorn such cases into the existing RICO statute, the new gang crime statute is narrowly tailored to address the specific problem of gangs. Gang investigations and prosecutions take time and resources, and those resources will be provided by this bill.

Organized crime, Madam Chairman, has been prosecuted in the same way with long and complex trials designed to take out a number of defendants in one single prosecution, and they were successful in ending their spread. Madam Chairman, let us give our police and prosecutors the freedom to end the spread of gang violence.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 1 minute.

Whether this bill passes or not, murder, rape, robbery will be illegal. People will be prosecuted. They will get time in jail. In fact, as I indicated before, for 15- to 19-year-old African Americans in this country, one out of eight are already in jail today. This bill, which will try more juveniles as adults, will not only increase the number in jail but will also increase the crime rate.

Mandatory minimums have been shown to be discriminatory and waste the taxpayers' money. The death penalty is discriminatory and does not do anything about crime. This bill will give 10 years mandatory minimums to second-offense fist fights, and that is not the kind of sentence that is going to do anything about these violent kinds of crimes that my colleagues are talking about. Ten years, mandatory minimum, second offense, fist fight.

Madam Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, let me add to the distinguished gentleman's commentary.

First of all, in the passage of the PATRIOT Act, if we are fearful of these gangs smuggling individuals over who do terrorist acts, the PATRIOT Act enhances sentencing on those engaging in terrorist acts.

That tragic incident in Texas, for example, in Houston, the information suggests that the dad was involved in gang activity that caused the, if you will, rising of the level of violence; but the good news is that the sheriff's department arrested those violent criminals.

This bill misses the point by providing a comprehensive approach to

have intervention to be able to dissuade some of the young people of America away from the affinity and kinship of gangs. That is why the bill is wrong, and this is why it does not have a full comprehensive approach.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 15 seconds.

Madam Chairman, I am sure that a social worker would have been able to convince the person who murdered the 18-month-old not to do it. If my colleagues believe that, vote ''no.'' If not, vote ''yes.''

Madam Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Chairman, I thank the esteemed chairman for yielding time to me, and Madam Chairman, I ask for this opportunity to say a few words in support of the bill that is before us and in compliments to the work done by the gentleman from Virginia who has announced to us that there is a number, the best estimate at 750,000 to 850,000, gang members in the United States.

When we think about the magnitude of that size number, 750,000 to 850,000, 75 to 100 percent, and a lot believe the number is very close to 100 percent, are illegal immigrants who have established a gang culture in the ethnic enclave that is a necessary result of illegal immigration. This ethnic enclave has created and fostered some of the worst gains we have ever seen in this country, people that cut off hands and arms and heads, people that have a network across this Nation that from a prison in California can order an execution on the streets of Virginia or from a prison in Virginia, order an execution in a prison in L.A. or on the streets of L.A.

That is what this culture has fostered; and that amount, that 850,000, that is roughly out of the 10 million illegal immigrants, that is about 8½ percent of the illegal population ends up in a gang. One in 12 people that come across the border illegally and stay here end up in a gang. By these numbers, it is an astonishing thing; and if we have 1.1 million that come across the southern border, these are the ones that stay here, calculate the numbers that turn out into gangs, the price to this society in hands and arms and heads.

Madam Chairman, I thank my colleague for this privilege to speak before this House.

Mr. SCOTT of Virginia. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the Committee on the Judiciary.

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Madam Chairman, I rise in opposition to H.R. 1279, the Gang Deterrence and Community Protection Act, because this bill fails to adequately deter youths from joining gangs and does not do enough to protect our communities.

This bill fails to create a much-needed, comprehensive approach to fighting our national gang epidemic. Instead of offering funding for proven intervention and prevention programs that effectively keep youths from joining gangs in the first place, this punitive bill simply imposes harsh and sweeping mandatory minimum sentences.

Locking up 16-year-olds for 10 years will not make gang crimes disappear. As any law enforcement officer will tell my colleagues, suppression is merely one of the avenues by which we can prevent gang violence. In fact, as many of my Democratic colleagues have repeatedly stressed, imposing mandatory minimums on youths often results in a greater likelihood of repeat, and more violent, offenses.

Prevention and intervention programs, on the other hand, have a proven track record of keeping kids out of gangs; but at the Committee on the Judiciary markup of this bill and in the Committee on Rules last night, amendments to include intervention and prevention programs in this bill were defeated along party-line votes.

I joined my colleagues, the gentleman from California (Mr. SCHIFF), the gentleman from California (Mr. CARDOZA), and the gentlewoman from California (Ms. WATSON), in submitting an amendment to expand the Project Safe Neighborhoods program, to authorize the Attorney General to make the FBI increase Safe Streets Initiative efforts, to reauthorize the Gang Resistance Education and Training Projects program and, more importantly, to double-funding for high-intensity interstate gang activity areas and require half of those funds to go to community-based anti-gang programs.

I know from personal knowledge that our amendment would have reduced gang activity nationwide because I have seen community-based programs work in my very own district.

The Gang Resistance in Paramount, or GRIP, program has been educating kids about the dangers of gang participation for years. I spent some time inside a fourth grade class inside of Paramount last year to see the GRIP program in action. I saw firsthand how the program caught the attention of the students, and it was amazing how the program engaged the students in learning and how quickly they saw the dangers in gangs.

I urge my colleagues to oppose H.R. 1279 and instead work towards a comprehensive approach.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Madam Chairman, I rise this afternoon to support H.R. 1279, the Gang Deterrence and Community Protection Act.

I was pleased to work with the Committee on the Judiciary, and especially the gentleman from Virginia (Mr. FORBES), my good friend, to support the legislation on the floor today.

According to the Justice Department, there are currently over 25,000 gangs and over 750,000 gang members who are active across the United States. Gang activity has been directly linked to the proliferation of illegal drugs, human trafficking, and many other violent crimes.

The Gang Deterrence and Community Protection Act will authorize funds for joint Federal, State, and local gang investigation prosecution; create a statute to prosecute criminal gang enterprises similar to the existing RICO statute used to prosecute Federal racketeering; create mandatory minimum sentencing for gang and violent crimes; and fund gang investigation technology to allow law enforcement to act more efficiently.

Madam Chairman, many headlines of late have reflected on growing gang problems in heavily populated areas. Unfortunately, gang violence is also on the rise in rural areas, including my congressional district. The disturbing news that it is spreading through the Shenandoah Valley of Virginia is indeed disturbing. In fact, the FBI has recognized the existence of at least six separate gangs in the valley, some of which are responsible for at least two gang-related murders in the past 2 years.

Madam Chairman, acknowledging the reality that gangs are no longer limited solely to urban areas, I am pleased to join my colleagues to support this gangbusters legislation. This legislation will allow us to meet the increase in gang activity with resources sufficient to combat this scourge in our communities, and I urge my colleagues to support this important legislation.

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Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Chairman, I cannot think of anybody who would want to see gangs deterred more. I cannot think of anybody who would want to see crime deterred more. I cannot think of many people who have had more experience living in inner-city communities, where there is a tremendous amount of poverty, deprivation and pestilence.

I want to see people who commit robbery, murder, rape, assaults, participate in mob action, all of them dealt with accordingly. And although I do not believe in capital punishment, I do believe that they have to be punished. I do not believe that mandatory minimums, that trying more children, more teenagers as adults, or changing venues and deciding what discretionary action individuals would be tried under is going to solve the problem. I think that we need to make sure that fairness is a part of justice.

Mr. Chairman, this bill frightens me. It scares me. I would hope that we would take it back, deal with it appropriately and bring a bill that we can

agree on that punishes those who deserve to be punished but to demonstrate that we understand sensitivity and not put children in jail as adults.

Mr. SCOTT of Virginia. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

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

Mr. CONYERS. My colleagues, this is a measure that we should be able to identify the problem, study the data, and work together to craft a commonsense response to youth violence. But the measure before us has fatal flaws which authorizes trying more juveniles as adults and provides for more mandatory minimums and more death penalties. None of these things will correct and reduce the youth violence problem, but they will seriously harm our system of juvenile justice.

Now, the one thing that we should know before we go to a vote here is the organizations that have joined myself and the gentleman from Virginia (Mr. SCOTT), the ranking subcommittee member, and the gentleman from Illinois (Mr. DAVIS), who has worked tirelessly on this issue across the years with the Congressional Black Caucus. For instance, the Judicial Conference of the United States opposes this measure. The Sentencing Commission opposes this measure; the Alliance for Children and Families, the Children's Defense Fund, the Youth Law Center, the American Civil Liberties Union, the American Correctional Association, the Chamber of Commerce, the National Federation of Independent Businesses, the National Council of La Raza, the Presbyterian Church, and the Volunteers of America.

And let me tell my colleagues why these groups oppose this legislation. Because, first, they know that trying children as adults and transferring them to adult jails not only does not work, but it makes the situation more likely that they will commit crimes upon release. There are studies that back this up; that they will commit violent crimes upon release, and they will commit crimes sooner upon release. The Miami Herald study concluded that, since adult prisons are, in effect, often crime schools, sending a juvenile there increases by 35 percent the odds that they will commit another offense within a year of release.

Secondly, we know that mandatory minimums distort the sentencing process because the Judicial Conference and the Sentencing Commission have found that mandatory minimums ''destroy honesty in sentencing by encouraging charge and fact plea bargains.'' Again, the legislation before us ignores these facts and creates numerous new mandatory minimums that will lead to far greater disparities and further discrimination.

At a time when we have more than 2.1 million Americans in prisons or jails, more than any Nation on the planet, and 10 percent of these individuals are already serving life sentences, it is difficult for reasonable legislators to see how more jail time for more youth can accomplish anything constructive.

Finally, we know now that the death penalty system in this country is incredibly prone to error. So I urge that the Members of this House return this measure to the Committee on the Judiciary.

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

Mr. Chairman, the opponents of this bill seem to zero in on two things. First of all, they are opposed to mandatory minimum sentences. People may have a philosophical disagreement on mandatory minimum sentences, but it seems to me that given the violence of gang activity, the number of murders, the number of maimings, that a mandatory minimum sentence is absolutely necessary to get these people off the streets if the twelve persons on the jury believe that that defendant has committed those crimes beyond a reasonable doubt.

The other thing we hear from the opponents is, they dust off the same old tired arguments that we need more and more spending on prevention programs, but no one has proven they work. Let us take a look at the facts. Violent crime rates over the last 30 years have dropped dramatically, by almost 50 percent. At the same time, tough new determinant sentencing schemes have been enacted by Congress, including mandatory minimums, truth-in-sentencing programs and other sentencing schemes where criminals go to jail for a specified period of time after their conviction. Prison populations have grown, and crimes have gone down. The logic is clear. We have to incarcerate and incapacitate the violent criminals in our society. We have done so and must continue to do so. This bill does that.

When we talk about spending more on prevention, consider these facts: Conservative estimates show that the Department of Justice has already spent over $2 billion, that is with a ''B,'' of the taxpayers' dollars between fiscal years 2001 through 2004 on juvenile and gang prevention programs. From fiscal year 1999 through fiscal year 2005, Congress has appropriated $3.3 billion of the taxpayers' dollars for juvenile justice programs within the Department of Justice.

Have they worked? This is yet to be proven, because juvenile gang violence is on the rise. The percentage of homicides committed by gangs has risen, and the number of juveniles committing gang murders has also risen.

So let me say that, if $3.3 billion over the last 6 years in intervention and prevention programs has not turned around this type of crime when other crime has gone down, maybe the time to throw the book at those who are engaged in juvenile gang violence is at hand. That is why this bill ought to pass. I urge the membership to vote aye.

Mr. RUSH. Mr. Chairman, I rise against this H.R. 1279, the Gang Deterrence and Community Prosecution Act of 2005. I strongly believe in cooperation between Federal and State law enforcement to deter gang activities. However, this bill takes the wrong approach by imposing mandatory sentences, trying juveniles as adults and expanding the death sentence to new offenses.

I, myself, can appreciate the destruction that gang violence can impose on a community. In Chicago alone, there are estimated to be 70,000 to 100,000 gang members—compared with about 13,000 Chicago police officers. Several ''super gangs'' dominate: the Gangster Disciples, the Black Disciples, the Vice Lords, the Black P Stones, the Mickey Cobras, the Latin Kings, the Spanish Cobras, the Maniac Latin Disciples, and the Satan Disciples. Each of these gangs controlled large amounts of territory and have wreaked havoc on the Chicago community. Nevertheless, prevention and intervention is the key in deterring juvenile crime and gang activities, not discriminatory mandatory sentencing or unfettered prosecutorial discretion.

Study after study have shown that trying juveniles as adults does not reduce crime but increases crime, including violent crime. In addition, a better approach, as opposed to this ill-advised approach, would be to focus our energy on more programs for at risk youth such as Head Start, Job Corps and family focused intervention programs. Again, I rise against H.R. 1279, and urge my colleagues on both sides of the aisle to do the same.

Ms. SCHAKOWSKY. Mr. Chairman, I stand today in strong opposition to H.R. 1279, the so-called gang Deterrence and Community Protection Act. Despite its deceptive title, its primary purpose is to punish more young people as adults. This bill would expand the use of the death penalty, treat juveniles as adults and impose mandatory minimum sentences. The research conclusively shows that prosecuting young people as adults does not reduce youth crime. If Congress is serious about reducing youth violence, it should fund evidence-based programs that have proven effective.

Federal prosecutors are already armed with the Continuing Criminal Enterprise, CCE, and Racketeer Influences and Corrupt Organization Act, RICO, statutes to combat gang crimes. This bill would unnecessarily federalize a host of crimes currently and competently handled by the states; penalize even non-violent crimes and misdemeanors as crimes of violence, including garden variety State offenses like resisting arrest; expand without reason the definition of criminal street gang; unwisely leave to the sole discretion of the government the unreviewable decision to try juveniles as adults; impose unduly harsh and discriminatory mandatory minimum sentences; and expand the use of the federal death penalty to new offenses.

I agree that gang violence and youth crimes are serious concerns today. Unfortunately, this bill does nothing in the way of jobs or education for at-risk youth. Instead, this bill would lock up young people in adult prisons and take away judges' discretion to review on a case-by-case basis crimes committed by youth. Research shows that young people who are

prosecuted as adults are more likely to commit a greater number of crimes upon release than youth who go through the juvenile justice system. Locking young people up in adult prisons will actually compromise public safety.

We know what works to prevent violent crime. Research demonstrates the effectiveness of focused family interventions such as family therapy and multidimensional treatment foster care. Certain school-based interventions such as the Bullying Prevention Program and the Project Towards No Drug Abuse, and careful monitoring programs such as Big Brothers Big Sisters of America have also proven effective. Instead of funding these programs whose empirical effectiveness can be demonstrated, supporters of this bill insist upon approaches that lack any evidence of actually deterring and reducing violent youth crime.

Furthermore, state juvenile justice systems are more appropriate and effective means for addressing youth offenses. Studies have shown that comprehensive, locally tailored strategies are the most effective in preventing gang and youth violence. Existing state legislation is more than adequate to comprehensively address youth violence—increased federalization of juvenile crime is not the answer.

The Judicial Conference of the United States, child advocacy groups, criminal justice groups, industry and business-oriented groups, religious, human rights and civil rights organizations all oppose this bill. It is the responsibility of Congress to the young people of this nation and to all citizens to ensure public safety. I urge my colleagues to reject H.R. 1279 because it would only exacerbate youth violence in the United States.

Mr. PAUL. Mr. Chairman, the Gang Deterrence and Community Protection Act, (H.R. 1279), is the latest example of Congress disregarding its constitutional limitations in the name of ''getting tough on crime.'' Gang crime is certainly a serious issue in many parts of the country. However, unless criminal gangs are engaging in counterfeiting, treason, or piracy, the federal government has no jurisdiction over the criminal activities of gangs. In fact, by creating new federal crimes related to gang activities, but unrelated to one of the federal crimes enumerated in the Constitution, the new federal crimes and enhanced penalties in this bill usurp state and local authority.

H.R. 1279 broadly defines ''criminal street gangs'' and ''gang activity.'' This is a major expansion of Federal criminal jurisdiction. Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese, two men who no one has ever accused of being ''soft on crime,'' have both warned that, although creating more Federal crimes may make politicians feel good, it is neither constitutionally sound nor prudent. Rehnquist has stated that, ''[t]he trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system.'' Meese stated that Congress's tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

Those who want the American criminal justice system to actually deliver justice should oppose H.R. l279 because it imposes ''mandatory minimum'' sentences for certain gang-related crimes. Mandatory minimum sentences impose a ''one-size-fits-all'' formula in place of the discretion of a judge, or jury, to weigh all the circumstances surrounding an individual's crime and decide on an appropriate punishment. Taking away judicial discretion over sentencing may represent a legislative usurpation of areas properly left to the judiciary. I have long been critical of judicial usurpation of legislative functions, and have introduced legislation using Congress's constitutional powers to rein in the judiciary. However, I recognize that Congress must make sure it does not overstep its constitutional authority by imposing legislative solutions on matters best resolved by the judicial branch.

Mandatory minimums almost guarantee unjust sentences. Reverend Nicholas DiMarzio, Chairman of the Domestic Policy Committee of the United States Conference of Catholic Bishops, and Reverend Kerry Snyder, President of Catholic Charities USA, summed it up well in a letter to Congress opposing this bill: ''. . . rigid sentencing formulations could prevent judges from properly assessing an individual's culpability during the crime of other factors that have bearing on recidivism, thus sometimes resulting in harsh and inappropriate sentences.''

I am also concerned that removing authority over the prevention and punishment of gang crimes from state and local jurisdictions will prevent states and localities from coming up with innovative ways to prevent gang crimes. Gangs flourish for a multitude of reasons, and no federal ''one-size-fits-all'' program can address all the causes of gang crimes. States and localities should be left free to create the gang prevention and punishment programs that best meet their unique needs.

Supporters of this bill make a good point that federal money is being wasted on ineffective ''prevention'' programs like the infamous ''midnight basketball'' program. However, H.R. 1279 in no way reduces funding for ineffective prevention programs. Instead, it spends more taxpayer money on unconstitutional crime programs. The sponsors of this bill could have attempted to stop wasting taxpayer funds on programs such as midnight basketball by defunding such prevention programs and using the funds to pay for the new programs created by H.R. 1279.

Finally, I must oppose this bill because it expands the Federal death penalty. While I recognize that nothing in the Constitution forbids Federal, State, or local governments from imposing a death penalty, I have come to the conclusion that a consistent pro-life position requires opposition to any legislation imposing a Federal death penalty for unconstitutional Federal crimes. Mr. Speaker, I do not advocate Federal action to stop individual States from imposing a death penalty, I simply oppose compounding the damage done by creating new Federal crimes by making those crimes subject to a Federal death penalty.

H.R. 1279 exceeds Congress's constitutional authority by creating new Federal crimes, thus further burdening the already overwhelmed Federal judiciary system and taking another step toward upending our constitutional system by turning the States into administrative districts of the Federal Government. This bill also creates unwise mandatory minimum sentences, usurping the sentencing decisions of judges and juries. Finally, H.R. 1279 raises serious moral issues by expanding the use of the Federal death penalty. Therefore, I must oppose H.R. 1279 and urge my colleagues to do same.

Mr. CANTOR. Mr. Chairman, I rise today to express my strong support for H.R. 1279, the Gang Deterrence and Community Protection Act of 2005.

I have spoken with sheriffs and police chiefs back in my district and they tell me: we need to be ready; we need to learn how to confront these gangs. This legislation will do just that, it will provide local, State, and Federal law enforcement and legal authorities with personnel, equipment, and training needed to combat violent criminal gangs.

In Virginia, no urban area has gone unscarred by criminal gangs. Across Virginia, officials estimate that as many as 80 gangs totaling 30,000 members or more roam our city streets.

The Commonwealth's law enforcement and prosecutors will now have greater resources to combat violent criminal gang activity. We must act now, if we are to protect Virginia's families and communities.

I urge passage of this legislation.

Mr. SHAYS. Mr. Chairman, I rise in support of H.R. 1279, which will increase the prosecution of gangs and help prevent gang-related crimes.

Gang violence is a serious problem, and we need to address it with determination and creativity.

A recent rash of gang-related violence has left four injured and one person dead in the city of Norwalk this year. My own home town of Bridgeport has faced a tough gang problem for years. It is absolutely essential we have strong legislation on the books to send gang members who commit violent acts into jail and off our streets.

I want to stress, however, the importance of prevention programs to deter our vulnerable youth from turning to gangs to support. The mentoring program in the Norwalk Public School system, which will benefit from the recent Department of Education Federal grant we secured, plays a strong role in keeping kids off the streets. The bottom line is, while we need to make sure juvenile offenders understand the consequences of their actions and are punished for them, we need to make every effort to help youth who are at risk of becoming juvenile offenders.

Mentoring programs designed to reduce children's juvenile delinquency and involvement in gangs and provide positive relationships to help guide them during their school years are an invaluable way to break the cycle of gang membership before it begins. Incarceration will put criminals away but it won't save more kids from falling through the cracks and turning to a life of crime.

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

The Acting CHAIRMAN (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1279

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 ''Gang Deterrence and Community Protection Act of 2005''.

TITLE I—CRIMINAL LAW REFORMS AND ENHANCED PENALTIES TO DETER AND PUNISH ILLEGAL STREET GANG ACTIVITY AND RELATED CRIMINAL LAW REFORMS

SEC. 101. REVISION AND EXTENSION OF PENALTIES RELATED TO CRIMINAL STREET GANG ACTIVITY.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended to read as follows:

''CHAPTER 26—CRIMINAL STREET GANGS

''Sec.

''521. Criminal street gang prosecutions.

''§ 521. Criminal street gang prosecutions

''(a) STREET GANG CRIME.—Whoever commits, or conspires, threatens or attempts to commit, a gang crime for the purpose of furthering the activities of a criminal street gang, or gaining entrance to or maintaining or increasing position in such a gang, shall, in addition to being subject to a fine under this title—

''(1) if the gang crime results in the death of any person, be sentenced to death or life in prison;

''(2) if the gang crime is kidnapping, aggravated sexual abuse, or maiming, be imprisoned for life or any term of years not less than 30;

''(3) if the gang crime is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

''(4) in any other case, be imprisoned for life or for any term of years not less than 10.

''(b) FORFEITURE.—

''(1) IN GENERAL.—The court, in imposing sentence on any person convicted of a violation of this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States such person's interest in—

''(A) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation; and

''(B) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation.

''(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Subsections (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to a forfeiture under this section as though it were a forfeiture under that section.

''(c) DEFINITIONS.—The following definitions apply in this section:

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means a formal or informal group or association of 3 or more individuals, who commit 2 or more gang crimes (one of which is a crime of violence other than an offense punishable under subparagraphs (A), (B), or (C) of section 401(b)(1) of the Controlled Substances Act), in 2 or more separate criminal episodes, in relation to the group or association, if any of the activities of the criminal street gang affects interstate or foreign commerce.

''(2) GANG CRIME.—The term 'gang crime' means conduct constituting any Federal or State crime, punishable by imprisonment for more than one year, in any of the following categories:

''(A) A crime of violence.

''(B) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

''(C) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(D) Any conduct punishable under section 844 (relating to explosive materials), subsection (a)(1), (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of this title) or is a serious drug offense (as defined in section 924(e)(2)(A))), (g)(2), (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (i), (j), (k), (n), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalties), section 930 (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 (relating to fraud and related activity in connection with identification documents or access devices), section 1952 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 (relating to interstate transportation of stolen motor vehicles or stolen property).

''(E) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) of the Immigration and Nationality Act.

''(3) AGGRAVATED SEXUAL ABUSE.—The term 'aggravated sexual abuse' means an offense that, if committed in the special maritime and territorial jurisdiction would be an offense under section 2241(a).

''(4) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(b) AMENDMENT RELATING TO PRIORITY OF FORFEITURE OVER ORDERS FOR RESTITUTION.—Section 3663(c)(4) of title 18, United States Code, is amended by striking ''chapter 46 or chapter 96 of this title'' and inserting ''section 521, under chapter 46 or 96,''.

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting '', section 521 (relating to criminal street gang prosecutions)'' before '', section 541''.

SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

(a) SUBSTANTIVE CHANGES TO OFFENSE.—Section 1952(a) of title 18, United States Code, is amended—

(1) so that the heading for the section reads as follows:

***''§ 1952. Interstate or foreign commerce-related aid to racketeering''**;*

(2) by inserting ''(1)'' after ''(a)'';

(3) by striking ''travels'' and all that follows through ''intent to'' and inserting '', in or affecting interstate or foreign commerce'';

(4) by striking ''(1) distribute'' and inserting ''(A) distributes'';

(5) by striking ''(2) commit'' and inserting ''(B) commits'';

(6) by striking ''(3) otherwise promote, manage, establish, carry on, or facilitate'' and inserting ''(C) otherwise promotes, manages, establishes, carries on, or facilitates''; and

(7) by striking ''and thereafter'' and all that follows through the end of the subsection and inserting the following:

''or attempts or conspires to do so, shall be punished as provided in paragraph (2).

''(2) The punishment for an offense under this subsection is—

''(A) in the case of a violation of subparagraph (A) or (C) of paragraph (1), a fine under this title and imprisonment for not less than 5 nor more than 20 years; and

''(B) in the case of a violation of subparagraph (B) of paragraph (1), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but if death results the offender shall be sentenced to death, or to imprisonment for any term of years or for life.''.

(b) CLERICAL AMENDMENT.—The item relating to section 1952 in the table of sections at the beginning of chapter 95 of title 18, United States Code, is amended to read as follows:

''1952. Interstate or foreign commerce-related aid to racketeering.''.

SEC. 103. AMENDMENTS RELATING TO VIOLENT CRIME.

(a) CARJACKING.—Section 2119 of title 18, United States Code, is amended—

(1) by striking '', with the intent to cause death or serious bodily harm'' in the matter preceding paragraph (1);

(2) by inserting ''or conspires'' after ''attempts'' in the matter preceding paragraph (1);

(3) by striking ''15'' and inserting ''20'' in paragraph (1); and

(4) by striking ''or imprisoned not more than 25 years, or both'' and inserting ''and imprisoned not less than 10 years nor more than 30 years'' in paragraph (2).

(b) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIOLENCE.—Section 924(h) of title 18, United States Code, is amended to read as follows:

''(h) Whoever, in or affecting interstate or foreign commerce, knowingly transfers a firearm, knowing or intending that the firearm will be used to commit, or possessed in furtherance of, a crime of violence or drug trafficking crime, shall be fined under this title and imprisoned not less than 5 years nor more than 20 years.''.

(c) AMENDMENT OF SPECIAL SENTENCING PROVISION RELATING TO LIMITATIONS ON CRIMINAL ASSOCIATION.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting ''section 521 (criminal street gang prosecutions), in'' after ''felony set forth in'';

(2) by striking ''specified person, other than his attorney, upon'' and inserting ''specified person upon''; and

(3) by inserting ''a criminal street gang or'' before ''an illegal enterprise''.

(d) CONSPIRACY PENALTY.—Section 371 of title 18, United States Code, is amended by striking ''five'' and inserting ''20''.

SEC. 104. INCREASED PENALTIES FOR USE OF INTERSTATE COMMERCE FACILITIES IN THE COMMISSION OF MURDER-FOR-HIRE AND OTHER FELONY CRIMES OF VIOLENCE.

(a) IN GENERAL.—Section 1958 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

***''§ 1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence''**;*

(2) in subsection (a), by inserting ''or other crime of violence, punishable by imprisonment for more than one year,'' after ''intent that a murder''; and

(3) in subsection (a), by striking ''shall be fined'' the first place it appears and all that follows through the end of such subsection and inserting the following:

''shall, in addition to being subject to a fine under this title

''(1) if the crime of violence or conspiracy results in the death of any person, be sentenced to death or life in prison;

''(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, or a conspiracy to commit such a crime of violence, be imprisoned for life or any term of years not less than 30;

''(3) if the crime of violence is an assault, or a conspiracy to assault, that results in serious

bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

''(4) in any other case, be imprisoned for life or for any term of years not less than 10.''.

(b) CLERICAL AMENDMENT.—The item relating to section 1958 in the table of sections at the beginning of chapter 95 of title 18, United States Code, is amended to read as follows:

''1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.''.

SEC. 105. INCREASED PENALTIES FOR VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

(a) OFFENSE.—Section 1959(a) of title 18, United States Code, is amended to read as follows:

''(a) Whoever commits, or conspires, threatens, or attempts to commit, a crime of violence for the purpose of furthering the activities of an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in, such an enterprise, shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for any other violation of this chapter and in addition to being subject to a fine under this title—

''(1) if the crime of violence results in the death of any person, be sentenced to death or life in prison;

''(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, be imprisoned for life or any term of years not less than 30;

''(3) if the crime of violence is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or for any term of years not less than 20; and

''(4) in any other case, be imprisoned for life or for any term of years not less than 10.''.

(b) VENUE.—Section 1959 of title 18, United States Code, is amended by adding at the end the following: —

''(c) A prosecution for a violation of this section may be brought in—

''(1) the judicial district in which the crime of violence occurred; or

''(2) any judicial district in which racketeering activity of the enterprise occurred.''.

SEC. 106. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

''MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME

''SEC. 424. (a) IN GENERAL.—Whoever commits, or conspires, or attempts to commit, a crime of violence during and in relation to a drug trafficking crime, shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for the drug trafficking crime and in addition to being subject to a fine under this title—

''(1) if the crime of violence results in the death of any person, be sentenced to death or life in prison;

''(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, be imprisoned for life or any term of years not less than 30;

''(3) if the crime of violence is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

''(4) in any other case, be imprisoned for life or for any term of years not less than 10.

''(b) VENUE.—A prosecution for a violation of this section may be brought in—

''(1) the judicial district in which the murder or other crime of violence occurred; or

''(2) any judicial district in which the drug trafficking crime may be prosecuted.

''(c) DEFINITIONS.—As used in this section—

''(1) the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code; and

''(2) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423, the following:

''Sec. 424. Murder and other violent crimes committed during and in relation to a drug trafficking crime.''.

SEC. 107. MULTIPLE INTERSTATE MURDER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1123. Use of interstate commerce facilities in the commission of multiple murder

''(a) IN GENERAL.—Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, or who conspires or attempts to do so, with intent that 2 or more intentional homicides be committed in violation of the laws of any State or the United States shall, in addition to being subject to a fine under this title—

''(1) if the offense results in the death of any person, be sentenced to death or life in prison;

''(2) if the offense results is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

''(3) in any other case, be imprisoned for life or for any term of years not less than 10.

''(b) DEFINITION.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

''1123. Use of interstate commerce facilities in the commission of multiple murder.''.

SEC. 108. ADDITIONAL RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting '', or would have been so chargeable if the act or threat had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction,'' after ''chargeable under State law''; and

(2) in subparagraph (B), by inserting ''section 1123 (relating to interstate murder),'' after ''section 1084 (relating to the transmission of gambling information),''.

SEC. 109. EXPANSION OF REBUTTABLE PRESUMPTION AGAINST RELEASE OF PERSONS CHARGED WITH FIREARMS OFFENSES.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e), in the matter following paragraph (3), by inserting ''an offense under subsection (g)(1) (where the underlying conviction is a drug trafficking crime (as defined in section 924(c))), (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of section 922, or a crime of violence,'' after ''that the person committed''; and

(2) in subsection (g), by amending paragraph (1) to read as follows:

''(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, or involves a controlled substance, firearm, explosive, or destructive devise;''.

SEC. 110. VENUE IN CAPITAL CASES.

Section 3235 of title 18, United States Code, is amended to read as follows:

''§ 3235. Venue in capital cases

''(a) The trial for any offense punishable by death shall be held in the district where the offense was committed or in any district in which the offense began, continued, or was completed.

''(b) If the offense, or related conduct, under subsection (a) involves activities which affect interstate or foreign commerce, or the importation of an object or person into the United States, such offense may be prosecuted in any district in which those activities occurred.''.

SEC. 111. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3298. Violent crime offenses

''No person shall be prosecuted, tried, or punished for any noncapital felony, crime of violence, including any racketeering activity or gang crime which involves any crime of violence, unless the indictment is found or the information is instituted not later than 15 years after the date on which the alleged violation occurred or the continuing offense was completed.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3298. Violent crime offenses.''.

SEC. 112. MODIFICATION OF DEFINITION OF CRIME OF VIOLENCE.

Section 16(b) of title 18, United States Code, is amended to read as follows:

''(b) any other offense that is an offense punishable by imprisonment for more than one year and that, by its nature, involves a substantial risk that physical force may be used against the person or property of another, or is an offense punishable under subparagraphs (A), (B), or (C) of section 401(b)(1) of the Controlled Substances Act.''.

SEC. 113. CLARIFICATION TO HEARSAY EXCEPTION FOR FORFEITURE BY WRONGDOING.

Rule 804(b)(6) of the Federal Rules of Evidence is amended to read as follows:

''(6) FORFEITURE BY WRONGDOING.—A statement offered against a party who has engaged or acquiesced in wrongdoing, or who could reasonably foresee such wrongdoing would take place, if the wrongdoing was intended to, and did, procure the unavailability of the declarant as a witness.''.

SEC. 114. INCREASED PENALTIES FOR CRIMINAL USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) by striking ''shall'' and inserting ''or conspires to commit any of the above acts, shall, for each instance in which the firearm is used, carried, or possessed'';

(B) in clause (i), by striking ''5 years'' and inserting ''7 years''; and

(C) by striking clauses (ii) and (iii) and inserting the following:

''(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 15 years; and

''(iii) if the firearm is used to wound, injure, or maim another person, be sentenced to a term of imprisonment of not less than 20 years.''; and

(2) by striking paragraph (4).

(b) CONFORMING AMENDMENT.—Section 924 of title 18, United States Code, is amended by striking subsection (o).

SEC. 115. TRANSFER OF JUVENILES.

The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended—

(1) by striking ''A juvenile'' where it appears at the beginning of the paragraph and inserting ''Except as otherwise provided in this chapter, a juvenile'' ;

(2) by striking ''as an adult, except that, with'' and inserting ''as an adult. With''; and

(3) by striking ''However, a juvenile'' and all that follows through ''criminal prosecution.'' at the end of the paragraph and inserting ''The Attorney General may prosecute as an adult a juvenile who is alleged to have committed an act after that juvenile's 16th birthday which if committed by an adult would be a crime of violence that is a felony, an offense described in subsection (d), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalties), section 930 (relating to possession of firearms and dangerous weapons in Federal facilities), or section 931 (relating to purchase, ownership, or possession of body armor by violent felons). The decision whether or not to prosecute a juvenile as an adult under the immediately preceding sentence is not subject to judicial review in any court. In a prosecution under that sentence, the juvenile may be prosecuted and convicted as an adult for any other offense which is properly joined under the Federal Rules of Criminal Procedure, and may also be convicted as an adult of any lesser included offense.''.

TITLE II—INCREASED FEDERAL RESOURCES TO DETER AND PREVENT AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS

SEC. 201. DESIGNATION OF AND ASSISTANCE FOR "HIGH INTENSITY" INTERSTATE GANG ACTIVITY AREAS.

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

(1) GOVERNOR.—The term ''Governor'' means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term ''high intensity interstate gang activity area'' means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States, may designate as high intensity interstate gang activity areas, specific areas that are located within 1 or more States.

(2) ASSISTANCE.—In order to provide Federal assistance to high intensity interstate gang activity areas, the Attorney General shall—

(A) establish criminal street gang enforcement teams, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team;

(C) provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area; and

(D) provide all necessary funding for national and regional meetings of criminal street gang enforcement teams, and all other related organizations, as needed, to ensure effective operation of such teams through the sharing of intelligence, best practices and for any other related purpose.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—The team established pursuant to paragraph (2)(A) shall consist of agents and officers, where feasible, from—

(A) the Federal Bureau of Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(D) the United States Marshals Service;

(E) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(F) the Department of Housing and Urban Development;

(G) State and local law enforcement; and

(H) Federal, State, and local prosecutors.

(4) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider—

(A) the current and predicted levels of gang crime activity in the area;

(B) the extent to which violent crime in the area appears to be related to criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity;

(C) the extent to which State and local law enforcement agencies have committed resources to—

(i) respond to the gang crime problem; and

(ii) participate in a gang enforcement team;

(D) the extent to which a significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and

(E) any other criteria that the Attorney General considers to be appropriate.

(c) ADDITIONAL ASSISTANT U.S. ATTORNEYS.—The Attorney General is authorized to hire 94 additional Assistant United States attorneys to carry out the provisions of this section. Each attorney hired under this subsection shall be assigned to a high intensity interstate gang activity area.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (b); and

(2) $7,500,000 for each of the fiscal years 2006 through 2010 to carry out subsection (c).

SEC. 202. GRANTS TO STATE AND LOCAL PROSECUTORS TO COMBAT VIOLENT CRIME AND TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended —

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(5) to hire additional prosecutors to—

''(A) allow more cases to be prosecuted; and

''(B) reduce backlogs;

''(6) to fund technology, equipment, and training for prosecutors and law enforcement in order to increase accurate identification of gang members and violent offenders, and to maintain databases with such information to facilitate coordination among law enforcement and prosecutors; and

''(7) to fund technology, equipment, and training for prosecutors to increase the accurate identification and successful prosecution of young violent offenders.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.''.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–76. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered 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, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1, printed in House Report 109–76.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 4, lines 13 through 14, strike ''under subparagraphs (A), (B), or (C)'' and insert ''under subparagraph (A), (B), or (C)''.

Page 4, line 23, insert ''(other than a crime of violence against the property of another)'' before the period.

Page 7, line 10 through the matter after line 2, page 9, strike section 102 and insert the following:

SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

Section 1952 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''perform'' and all that follows through the end of the subsection and inserting ''perform an act described in paragraph (1), (2), or (3), or conspires to do so, shall be punished as provided in subsection (d).''; and

(2) by adding at the end following:

''(d) The punishment for an offense under subsection (a) is—

''(1) in the case of a violation of paragraph (1) or (3), a fine under this title and imprisonment for not less than 5 nor more than 20 years; and

''(2) in the case of a violation of paragraph (2), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but if death results the offender shall be sentenced to death, or to imprisonment for any term of years or for life.''.

Page 9, line 24, strike ''drug trafficking crime,'' and insert ''drug trafficking crime (as defined in subsection (c)(2)),''.

Page 11, line 11, strike ''this title'' and insert ''this title—''.

Page 12, line 10, insert '', as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or'' after ''crime of violence''.

Page 13, line 8, strike ''following: —'' and insert ''following:''.

Page 15, line 7, strike ''423,'' and insert ''423''.

Page 16, line 1, strike ''is assault resulting''.

Page 19, line 8, strike ''force may be used against'' and insert ''injury may result to''.

Page 19, line 10, strike ''subparagraphs (A), (B), or (C)'' and insert ''subparagraph (A), (B), or (C)''.

Page 20, after line 17, insert the following new subsection and redesignate the succeeding subsection accordingly:

(b) CLARIFICATION OF BAN ON POSSESSION OF HANDGUNS BY JUVENILES.—Section 922(x)(3) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following:

''(E) the possession of a handgun or ammunition by a juvenile, while in the presence of a parent or guardian of the juvenile, if such parent or guardian, as the case may be, is not prohibited by Federal, State, or local law from possessing a firearm. ''.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Wisconsin, (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

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

MODIFICATION TO AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that my amendment be modified by the form that I have placed at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 1 offered by Mr. SENSENBRENNER: Strike that portion of the amendment which proposes to insert material on page 20.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Wisconsin?

Mr. SCOTT of Virginia. Mr. Chairman, reserving the right to object, I would ask the gentleman to please explain the modification, if that is not part of his presentation.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the material that is on page 20 relates to a clarification of the ban on possession of hand guns by juveniles. It appears to me that the clarification does not clarify the statute. The best thing to do is to completely remove the clarification as was proposed, thus leaving the current law intact, which means that if a juvenile possesses a hand gun, he will have to have a written note stating that he is authorized to do so from his parent.

Mr. SCOTT of Virginia. Continuing my reservation of objection, Mr. Chairman, how does the modification change the original manager's amendment?

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will yield further, the original manager's amendment said if the parent accompanied the juvenile, the juvenile did not have to have the note. What this modification does is to require the juvenile to continue having the note.

Mr. SCOTT of Virginia. Mr. Chairman, I withdraw my reservation of objection.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Wisconsin?

There was no objection.

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

Mr. Chairman, I offer this manager's amendment to correct and clarify several provisions of the legislation. Let me briefly summarize the changes made by the amendment, as modified.

First, the amendment would exclude property crimes from the crime of violence definition of the gang crime statute created by this legislation. The purpose of this change is to ensure that the gang crime statute is applied as intended to dismantle and disrupt violent gangs and to prevent unintended application of the statute for property crimes.

□ 1515

Second, the amendment would add conspiracies as a criminal violation and increase criminal penalties for any such violation under section 1952 of title 18, Interstate and Foreign Travel in Aid of Racketeering Enterprises.

Third, the manager's amendment would ensure that a portion of title 18 under existing law, which was inadvertently omitted from the introduced and reported versions of H.R. 1279, is not changed as a result of enacting this legislation.

Fourth, the amendment would clarify the crime of violence definition under section 16(b) of title 18 to include an act that by its nature creates a substantial risk that physical injury may result to a person or property of another.

I urge my colleagues to support this amendment.

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

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to seek the time in opposition although I am not opposed to the amendment.

The Acting CHAIRMAN (Mr. LAHOOD). Without objection, the gentleman from Virginia (Mr. SCOTT) is recognized for 5 minutes.

There was no objection.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Chairman, I would like to thank the gentleman from Wisconsin for working with me on this section, section 922(x) which he just basically took out. I appreciate him working with us on that issue.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. I thank the gentleman for yielding me this time.

Mr. Chairman, addressing gang violence across this Nation is absolutely an important step so that people can feel safe in their communities and so that our youth will grow up to be productive, happy, satisfied adults. While I commend my colleagues on the other side of the aisle for addressing this important issue, I am deeply disappointed in their legislation.

Gang violence affects most communities across the United States. In fact, I represented the Sixth District of California, which is north of the Golden Gate Bridge from San Francisco. In my district, there is no exception. We too have gang violence. The largest city in my district, Santa Rosa, is increasingly faced with gang violence. Drive-by shootings are becoming so common that the newspapers no longer report the incidents on the front page.

Local communities must address this problem, no question; and Santa Rosa is working hard to do so. With the help of new State of California funding through Measure Zero, a sales tax that passed in the last go-around, the city is providing diversion programs that appeal to youth, such as after-school programs and increased recreational activities. Community leaders are finding more job opportunities for young people, and adults are mentoring them and exposing them to situations that are positive alternatives to gang life. Even the conservative think tank, Mr. Speaker, the Heritage Foundation, agrees that these are the best ways to curb gang violence.

This bill does not provide significant funding to States and local communities to build on their successful local programs. Rather, H.R. 1279 creates new death penalties, mandatory minimum sentences, and measures to prosecute children in adult court, in other words, applying adult punishment to young people. This is the wrong approach, and I cannot support it. I urge my colleagues to join me in opposing H.R. 1279 and insisting that we go back and prepare legislation with real workable solutions and alternatives to gang violence.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), as modified.

The amendment, as modified, was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–76.

AMENDMENT NO. 2 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CUELLAR:

Page 26, after line 2, insert the following (and redesignate succeeding subsections accordingly):

(c) NATIONAL GANG INTELLIGENCE CENTER.—

(1) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

(A) the Federal Bureau of Investigation;

(B) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(C) the Drug Enforcement Administration;

(D) the Bureau of Prisons;

(E) the United States Marshals Service;

(F) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(G) the Department of Housing and Urban Development;

(H) State and local law enforcement;

(I) Federal, State, and local prosecutors;

(J) Federal, State, and local probation and parole offices; and

(K) Federal, State, and local prisons and jails.

(2) INFORMATION.—The Center established under paragraph (1) shall make available the information referred to in paragraph (1) to—

(A) Federal, State, and local law enforcement agencies;

(B) Federal, State, and local corrections agencies and penal institutions; and

(C) Federal, State, and local prosecutorial agencies.

(3) ANNUAL REPORT.—The Center established under paragraph (1) shall annually submit to Congress a report on gang activity.

Page 26, line 10, strike ''$50,000,000'' and insert ''$60,000,000''.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all know that gangs are no longer just an urban problem. They affect every community. As law enforcement officials from big cities to small towns will tell you, to combat the problem we all need to work together, share information, and identify the issues that will help us strike at the heart of gang violence. My amendment gives us the means to do just that.

It would establish a national gang intelligence center at the FBI to help law enforcement officials across the country share information about gangs and gang members so that we can identify emerging problems before they take root. Last year, $10 million was appropriated for the center, an effort led by the gentleman from Virginia (Mr. WOLF), who has long been a strong supporter of law enforcement. My amendment would simply authorize the creation of the center.

Mr. Chairman, by helping law enforcement share information, we will be giving our police on the streets a powerful tool in the fight against violence and help them better protect our citizens.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support the gentleman's amendment. It provides an authorization for a program that already has been funded by the Committee on Appropriations. It is a good amendment. It helps the bill out. I urge Members to vote for it.

Mr. CUELLAR. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–76.

AMENDMENT NO. 3 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 26, after line 2, insert the following new subsection (and redesignate succeeding subsections accordingly):

(c) NATIONAL AND REGIONAL GANG ACTIVITY DATABASES.—

(1) DATABASES REQUIRED.—From amounts made available to carry out this section, the Attorney General shall establish—

(A) for each high intensity interstate gang activity area, a regional gang activity database; and

(B) a national gang activity database that replicates the information in the regional databases.

(2) DESCRIPTION.—Each regional gang activity database required by paragraph (1) shall—

(A) be designed to disseminate gang information to law enforcement agencies throughout the region;

(B) contain critical information on gangs, gang members, firearms, criminal activities, vehicles, and other information useful for investigators in solving gang-related crimes; and

(C) operate in a manner that enables law enforcement agencies to—

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

(iii) coordinate police response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up to date figures and statistical data on gang crime and violence;

(vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me applaud the author and the ranking member and the Chair of this committee for addressing the issue of gangs. I do not agree with all of the approach, but I do agree we need to address the issue, and I rise today to speak about the creation of databases to track gang activity.

In addition to developing a solid gang prevention strategy, we must equip our law enforcement professionals with the tools to protect our communities. Recently, law enforcement in Dallas spoke to me regarding their desire to track gang activity. I work closely with the law enforcement divisions in my area, and they wanted a system that would allow them to easily access and share information on gang activity. I am offering an amendment that will do just that.

This database will contain critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and other fields of information necessary for investigators to solve gang-related crimes.

In addition, it will allow law enforcement to track the movement of gangs and members throughout the country, coordinate police response to gang violence, and enhance officer safety. This system is a fundamental step in combating future gang violence. I ask my colleagues for their support for this important amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. This is also a very good amendment. I would hope everybody would support it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109–76.

AMENDMENT NO. 4 OFFERED BY MS. WATSON

Ms. WATSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WATSON:

Page 26, after line 2, insert the following:

(5) CONSULTATION REQUIRED.—The Attorney General may not designate a high intensity interstate gang activity area without first consulting with and receiving comment from local elected officials representing communities within the State of proposed designation.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I yield myself such time as I may consume.

I urge my colleagues to support the amendment. I would also like to thank my colleagues on the Committee on Rules for allowing me to bring this important issue to the floor today. This amendment would require the Attorney General to seek input from local elected officials before designating an area as a high-intensity interstate gang activity area. The bill currently

only requires the Attorney General to consult Governors of the States. California is three States in one; and for a person like me who lives in South Los Angeles, right in the middle of a gang area, I would have a lot to tell about designating that gang area.

The underlying bill gives local communities no input. My amendment would simply require the Attorney General to seek input from local elected officials before designating an area as being a high-intensity gang area. This amendment is not intended to slow down the process of designation or give local officials veto power that supersedes the power of Federal and State officials. Rather, it lets the communities and the people that represent them have a voice in the decision-making.

Addressing the gang problem in our communities is an issue that requires all levels of government working together. Who knows better the problems facing these communities' constituents than the communities themselves? Reducing gang violence requires hands-on intervention and input from those most affected by gang violence.

These communities know, first-hand, the damage gang violence does in their neighborhoods everyday. Their opinions should be heard on the state and federal levels.

The communities affected by gang violence must have the chance to express their views before neighborhoods are classified as a High Intensity Gang Area. Local officials know better than anyone else what is occurring on a day to day basis in their jurisdictions. This amendment would allow participation on all levels of government in this designation process. Mr. Chairman, I urge my colleagues to support this amendment and allow local elected officials, in conjunction with federal and state officials, to have input on how their communities are branded as High Intensity Gang Areas.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. WATSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentlewoman for yielding. This also is a very good amendment. I would hope that the Committee would unanimously approve it.

Ms. WATSON. Mr. Chairman, I would hope the Members would support my amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WATSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–76.

AMENDMENT NO. 5 OFFERED BY MS. WATSON

Ms. WATSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. WATSON:

Page 26, after line 7, insert the following:

(d) ADDITIONAL BATFE INSPECTORS AND AGENTS.—The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, is authorized to hire 100 additional inspectors and 100 additional agents for the Bureau. Each inspector and agent hired under this subsection shall be assigned to a high intensity interstate gang activity area, for the purpose of assisting local law enforcement agencies to provide more accurate and complete reports to the Bureau of weapons used by gangs in the area.

Page 26, line 8, strike ''(d)'' and insert ''(e)''.

Page 26, line 11, strike ''and''.

Page 26, line 13, strike the period and insert ''; and''.

Page 26, after line 13, insert the following:

(3) $20,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (d).

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I yield myself such time as I may consume.

This amendment would add 100 new inspectors and 100 new agents to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These inspectors and agents would be assigned to the new high-intensity interstate gang activity areas created by H.R. 1279.

As I mentioned, my congressional district is part of a high-crime area, and there is a gun shop in it that has sparked my attention in recent months. I have been working with BATFE to ensure that this shop does not become a source of gang weaponry in my district. One comment I have repeatedly heard from the bureau is that they simply do not have the personnel necessary to crack down on gun-law violators and keep guns out of the hands of violent gangs.

The lack of proper inspections and detailed reports on how guns get into the hands of gang members hampers the fight against these violent gangs. Congress must assist the bureau by allowing it to have an adequate amount of staff to accurately investigate how illegal guns are getting into our communities and make every effort to remove weapons from gang members' hands.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. WATSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. She has got a second good amendment. I urge the Committee to approve it and allow her to leave batting 2 for 2.

Ms. WATSON. I thank the gentleman.

Mr. Chairman, reclaiming my time, I will just finish up.

These additional inspectors and agents are essential because they would be assigned to assist local law enforcement to cut off the supply of weapons and ammunition to gang members. This amendment would also help local law enforcement and the BATFE compile much-needed data on how weapons are obtained and used by gangs.

This amendment is not a gun control amendment; it is a law enforcement amendment. By improving our enforcement of existing gun laws, gang members will lose the dominating weaponry that permits gangs to outgun police and kill innocent people.

Mr. Chairman, I believe that we should make every effort to prevent gang members from obtaining their "Weapons of Mass Destruction." I urge my colleagues to support this amendment and help the Bureau of Alcohol, Tobacco, Firearms, and Explosives continue the assault on crime in our communities while cutting off the flow of guns to gang members.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WATSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109–76.

AMENDMENT NO. 6 OFFERED BY MR. WYNN

Mr. WYNN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. WYNN:

Page 22, after line 3, insert the following:

SEC. 116. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL PENALTIES.

The Attorney General is authorized to conduct media campaigns in those areas designated as high intensity interstate gang activity areas and those areas with existing and emerging problem with gangs, as needed, to educate individuals there about the changes in criminal penalties made by this Act, and to report to the Committee on the Judiciary of the House of Representatives the amount of expenditures and all other aspects of the media campaign.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

I think it is very laudable that we are taking up the issue of gun violence and gang violence. This is a problem that affects just about every community; and I think this bill, while I do not agree with all of its approaches, certainly has merit. It relies in significant part on mandatory minimum sentences. Some people will say we have gone too far. The point is with mandatory minimums, you have two aspects: one, the punitive aspect. We will get bad actors off the street. The second aspect is deterrence. People being aware of mandatory minimums will not, in fact, do the crime. In the instance of a 30-year mandatory minimum sentence for murder, for sexual

assault, for maiming, this is designed to discourage people from engaging in this conduct.

My amendment would simply authorize the Attorney General to engage in a media campaign to let people know about these new mandatory minimums so that we can, in fact, have a deterrent effect.

□ 1530

The deterrence requires a certain knowledge of the consequences of one's acts. By having a media campaign, we are in a position to let young people who may be either in a gang or contemplating joining a gang understand that, if they engage in a maiming, cutting off someone's arm, if they engage in an aggravated sexual assault, that they are facing a potential 30-year mandatory minimum sentence, the idea being that this mandatory minimum sentence would discourage the conduct. I think the media campaign contained and authorized under this amendment would further that goal. So I would ask for favorable consideration.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WYNN. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, another good amendment has been offered, and I would urge the Committee to adopt that, and I thank the gentleman for offering it.

Mr. WYNN. Mr. Chairman, reclaiming my time, I thank the gentleman for his support.

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

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109–76.

AMENDMENT NO. 7 OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GOODLATTE:

Page 22, after line 3, insert the following:

SEC. 116. CRIMES OF VIOLENCE AND DRUG CRIMES COMMITTED BY ILLEGAL ALIENS.

(a) OFFENSES.—Title 18, United States Code, is amended by inserting after chapter 51 the following new chapter:

''CHAPTER 52—ILLEGAL ALIENS

''Sec.
''1131. Enhanced penalties for certain crimes committed by illegal aliens.

''§ 1131. Enhanced penalties for certain crimes committed by illegal aliens

''Whoever, being an alien who is unlawfully present in the United States, commits, conspires or attempts to commit, a crime of violence (as defined in section 16) or a drug trafficking offense (as defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison. If the defendant was previously ordered removed under the Immigration and Nationality Act on the grounds of having committed a crime, the defendant shall be sentenced to not less than 15 years in prison . A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following new item:

''52. Illegal aliens ..... 1131''.

SEC. 117. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, and any and all aliens who have signed a voluntary departure agreement. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and''.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. SCOTT) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment to crack down on gangs comprised of illegal aliens, such as MS–13, which Newsweek recently called ''the most dangerous gang in America.''

In my congressional district alone, we have recently witnessed a disturbing rise in the level of gang activity as well as the number of illegal aliens participating in this gang activity. The FBI has recognized the existence of at least six separate gangs in the Shenandoah Valley, with the largest being the notorious Salvadoran gang Mara Salvatrucha, or MS–13. MS–13 is known for such heinous crimes as shootings, rapes and machete attacks, among others, and is estimated to have over 1,500 members in northern and northwestern Virginia alone.

The number of gang members and violent criminals who are illegal aliens and who have been previously deported is staggering. Recently, at the Immigration, Border Security, and Claims Subcommittee, Commonwealth's Attorney Marsha Garst of Rockingham County, Virginia, testified that illegal aliens make up 50 percent of the membership of MS–13 and 75 percent of the membership of another gang in that area, Surenos 13.

According to the FBI, MS–13 is a highly sophisticated gang of illegal and previously deported aliens that is committed to national expansion in the United States and is built on a infrastructure which transports new members or previously deported members across our borders with the intention and plan to expand their activities into new communities and enrich themselves all at the expense of our communities and our law-abiding neighbors. Make no mistake about it: MS–13 is committed to a war by invading and taking over our communities, and deportation means nothing to them because they simply return to our country with yet another new identity, crossing our borders without any reservation and resuming their illegal activities, terrorizing our communities without fear of harsh punishment.

It is now time for us to disable MS–13 and its vicious cycle of violence. My amendment does just that. It gives law enforcement the ability to tack on more severe punishments rather than simply returning MS–13 members to El Salvador or other countries where they will turn around and sneak right across our borders once again. If faced with a choice of putting these gang members in jail or deporting them and having them return, the choice is clear: We must incarcerate them and bring freedom back to our neighborhoods.

The growth in illegal alien participation gangs is not limited to Virginia or just to MS–13. Across the Nation, the number of illegal aliens joining gangs and the number of gang members who have re-entered the country after deportation is alarming. According to the testimony of Heather MacDonald of the Manhattan Institute, a confidential California Department of Justice study reported in 1995 that 60 percent of the 20,000-strong ''18th Street gang'' in Southern California was illegal. Immigration and Customs Enforcement conservatively puts the number of illegal aliens in MS–13 as a majority. Sixty percent of the leadership of the ''Colombia Lil' Cycos'' gang, which uses murder and racketeering to control the drug market around Los Angeles' MacArthur Park, consisted of illegal aliens in 2002. And according to the Los Angeles Times, the Los Angeles Department arrests about 2,500 criminally convicted deportees annually. Let me make that clear: Annually, the Los Angeles Police Department estimates that 2,500 of the people that they arrest each year have already previously committed a crime and already previously been deported, and they have come back into the country, and 2,500 of them are arrested yet again.

My amendment would help to stop the entry and re-entry of gang members into the country by imposing strict penalties on illegal aliens who participate in gang activities and who have already shown they will commit violent crimes and drug-trafficking offenses. With stiff new penalties, we can deter these gang members from re-entering the United States with the intention of joining or resuming violent gang activities.

Specifically, my amendment would add 5 years of prison time to any sentence for violent crimes or drug-trafficking offenses when the violator is an illegal alien. It will also add 15 years of prison time to any such sentence if the illegal alien had been previously deported on the grounds of a criminal offense and had re-entered the country. In addition, the amendment would require the Department of Homeland Security to send all the names of individuals who are subject to deportation orders or who have signed voluntary deportation orders to the National Crime Information Center, the NCIC, so that information on illegal alien gang members can be more easily accessed.

We must shut down this revolving door of criminal illegal aliens. It is time to say to them, if they come here illegally and commit a gang crime, they will do the time. Our children and our communities deserve nothing less.

This amendment will give law enforcement additional tools in the fight against some of the most vicious gangs in America and will help deter violent criminals from entering the country to join gangs.

I urge my colleagues to support this commonsense amendment.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to remind the House that it is already illegal to murder, rape, kidnap, cut off hands with machete attacks, conspiracy to do any of those acts. We lock people up for that. In fact, since we are talking about immigrants, one in 27 Hispanic males 25 to 29 are in jail today already. Those are crimes. They are doing the time. Also, for those who are crossing State lines and all that, we have RICO, Continuing Criminal Enterprise. That is already the law.

But this amendment just adds insult. And let us be clear: Second-offense fist fight by a bunch of kids, under the bill, is 10 years mandatory minimum. This adds 5 years to the 10-year mandatory minimum for second-offense fist fighting. I think that is excessive. If the fist fight deserves more time, the Sentencing Commission can deal with that. I would hope that we would defeat the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, could I ask the distinguished author of this amendment if this idea occurred to him during the time that we considered the bill in the Committee on the Judiciary? Because I have never heard of this before.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, this is something that has been discussed since the committee acted and passed the legislation out, but we felt very strongly that this would be a good addition to the legislation because of the fact that so many of these gang members are illegal aliens who have reentered the country after already having been deported and having committed crimes earlier. Something needs to be done more than simple deportation when they come right back in and commit more crimes.

Mr. CONYERS. Mr. Chairman, reclaiming my time, but we are trying to get rid of criminals from coming into the country, and what the gentleman is doing in this amendment is keeping them in the country. In other words, deporting them is not good enough. We want to keep them in our prison systems, which now house more citizens, and now, we are adding noncitizens to the population of those incarcerated in America. And I have some reservations about piling it on. We have never talked about this position before in the subcommittee or full committee of the Committee on the Judiciary.

Mr. Chairman, I thank the gentleman for yielding me this time to make that observation.

Mr. GOODLATTE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the fact of the matter is that this has a great deterrent effect. When the word gets out that they come back into this country and they get arrested after they have been deported and they are going to do serious time in the slammer, they are not as likely to come back. And with the efforts that are ongoing with the REAL ID Act, we are going to keep a lot of these people out of the country with that method, and we are going to find them when they come into the country and try to get driver's licenses. But when they do, they need to know that they are going to face serious time.

Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia (Mr. WOLF), a real leader in the war against gangs in America.

Mr. WOLF. Mr. Chairman, I rise in support of this amendment. Let me read an article from the Washington Post, ''In what officials suspect is the latest horror committed by gangs, 28 people, including six children, were killed December 24 when gunmen opened fire on a bus full of passengers near the northern Honduran city of San Pedro Sula.'' Twenty-eight individuals, six of them were children.

Another article said there was a request by the presidents of four Central American countries for help in gang battles. The request came as U.S. authorities revealed that they had issued an alert for the suspected mastermind of the killing of these 28 people near San Pedro Sula. The individual is a suspected member of the MS–13 gang and may have already entered the United States illegally.

The gentleman is right. That individual who was involved in the killing of 28 individuals in San Pedro Sula in Honduras was arrested in McAllen, Texas, coming back into the country after killing 28 people.

I think the gentleman's amendment is exactly right on target. There are many cases whereby they come back into the country and commit violent crimes after having committed violent crimes down in El Salvador. But 28 people in that little village in that town of San Pedro Sula, and then the man is arrested not in Honduras but up here in Texas.

With that, I just urge Members to strongly support the amendment. It is very good.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in opposition to this amendment. And I am surprised that my friend would propose that we increase the amount of money that taxpayers are paying for incarceration to now expand it to illegal aliens who commit crimes, leave the country and come back in. Where are we going to get all of this money?

We have one of the highest incarceration rates of any nation in the entire world. And we are spending a disproportionate amount of money on incarceration.

I submit to my colleagues that I think deportation is the answer, but have they thought about the fact that they should place the responsibility on keeping these criminals out of the country on the heads of the leaders of those countries?

We go right along with the leaders of these countries on trade agreements, on foreign assistance, with all kinds of assistance to these governments.

I would submit to my colleagues that if they submit the name of everybody that they deport and they send them back and they say to the leaders of these countries, If these people come back, we are going to penalize you in one of several ways that we cooperate with you; again, we have so many ways that we provide assistance to other countries, and we have got to make them responsible for keeping their criminals at home.

So I do not like the idea that we have a problem and that we are deporting criminals, and they are coming back, and we are going to make the American people pay for it. Make those other governments pay for it. Do not end up in press conferences with this administration, the head of our government's Members of Congress, working out all kinds of arrangements with

these governments to help them in so many ways, whether it is trade, foreign assistance or 909 other ways that we help them. Make them keep their criminals at home.

□ 1545

Penalize them if they do not. Do not charge the American taxpayer.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I am sure the President of Honduras would have loved to have kept the person who killed the 26 people in his country there and tried him and punished him there; but the fact of the matter is, the borders are leaky. Some of us have been trying to ensure the security of the borders through various measures, like the REAL ID Act, which has been signed. I would hope that that concern would spread as we deal with other immigration matters such as the numbers of border patrol people that we need to put on the border.

I support this amendment because it creates enhanced penalties for illegal aliens or those ordered deported on the grounds of having committed a crime who subsequently commit a crime of violence or a drug-trafficking crime.

An illegal alien who commits a drug-trafficking crime or crime of violence would receive a consecutive sentence of 5 years, and an alien who previously has been deported for a crime and subsequently commits a crime of violence or a drug trafficking crime would receive a consecutive sentence of 15 years. In addition, the amendment would require the Department of Homeland Security to provide the National Crime Information Center with information on illegal aliens.

Mr. Chairman, I urge support of the amendment.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

The gentleman from Virginia (Mr. WOLF) is exactly right, as is the chairman. Here we have a Los Angeles Times story: ''Four presidents seek help in gang battle. Central American leaders say the groups pose a hemispheric threat augmented by U.S. deportation of criminals.''

You cannot keep sending them back down there where they have no ability to handle them and they come right back up here and commit more crimes on our citizens. This is an important amendment that will give teeth to the message: do not come back in the United States. If you do, we are going to keep you in the slammer.

There are many, many examples of what illegal aliens have done. In Virginia, recent gang victims have been hacked by machetes and had fingers cut off. In May 2004, a 16-year-old boy in Fairfax County had several fingers chopped off in an attack by a machete-wielding assailant. A week later, a 17-year-old youth was shot dead in Herndon by an assailant on a bicycle. In July 17, 2003, in Shenandoah County, Virginia, MS–13 gang members violently murdered a 17-year-old pregnant Federal witness, Brenda Paz, before she could testify in a pending Federal trial in the Eastern District of Virginia against MS–13.

Send these guys to jail when they come back into this country after being deported. I urge my colleagues to support the amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to remind the House that it is illegal to chop off fingers and you will be given more time than this bill will provide. Murdering 28 people is also already illegal, whether this bill passes or not.

But this amendment just adds insult to injury. If a child comes into the country because his parents snuck into the country to work, this bill, the underlying bill provides for a 10-year mandatory minimum for a fist -fight. This just adds 5 more years of insult.

I would hope we defeat the amendment.

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

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 109–76.

AMENDMENT NO. 8 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. NORWOOD: Page 22, line 3, insert the following:

SEC. 116. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, and any and all aliens who have overstayed their visa. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and''.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of my amendment is to require the Department of Homeland Security within 6 months to get information on a number of types of criminal illegal aliens into the National Crime Information Center. This makes sense for law enforcement, it makes sense if you are going to go after the gang problem, and it even makes sense to address our illegal immigration problem.

The NCIC is a computerized index of criminal justice information available to the Federal, State, local law enforcement, and other criminal justice agencies. It is operational 24 hours a day, 365 days a year. This information helps apprehend fugitives, locates missing persons or property, and protects law enforcement officers. All records in NCIC are protected from unauthorized access.

Mr. Chairman, I would say to my colleagues, there should be no fear in using this database to get this vital information into the hands of law enforcement. It is a good system. It is a tested one.

Under my amendment, information on three types of aliens would be included in the National Crime Information Center: first, those aliens with a final order of removal issued against them. These are absconders who are flagrantly violating our laws.

Recent estimates, remember that word ''estimates,'' recent estimates say that there are over 400,000 in our country today. Of this number, approximately 85,000 are criminal aliens. I do not mean jaywalkers either. I mean murderers, rapists, and pedophiles.

Second, there are those who signed a volunteer deportation order.

The third group, a very important group, are those who have overstayed their visas.

Essentially, we are dealing with those who our government says should not be here, those who have themselves said they should not be here, and those who are overstaying their permission to be here.

This first category, visa overstays, is the difference between the language in my amendment and that of the previous one offered by my good friend,

the gentleman from Virginia (Mr. GOODLATTE), who incorporated much of my language into his good amendment; and I applaud him for that.

Lest my colleagues forget, this final category, those who overstay their visas, has given us some of the most heinous criminals recently. The chief planner of the 9/11 attacks, Mohammed Atta, overstayed his visa, along with a number of other hijackers.

Sheik Omar Rahman, the spiritual leader of the World Trade Center bombers and the plot to attack New York City landmarks, overstayed his visa, among other immigration violations.

Mahmud Abouhalima entered on a tourist visa in 1985, which expired in the spring of 1986. He was given permanent residence in 1988 as part of an amnesty for agriculture workers. There was no evidence, however, that he was ever an agriculture worker. He made several trips to Afghanistan where he received combat training. He was implicated as a lead organizer in the 1993 plots to bomb New York landmarks.

Mohammed Salameh entered on a 6-month tourist visa issued in Jordan in 1988. He should never have qualified for the visa by law as he fit the profile of intending immigrant. He rented the truck in the 1993 WTO bombing.

Eyad Ismoil entered on a student visa in 1989, left school after three semesters, violating the terms of his visa, and became an illegal alien. He later drove the World Trade Center van full of explosives.

More facts about visa overstays that might startle folks a little bit: at least 40 percent of the noncitizens who stay in the United States illegally, and perhaps more than half, did not sneak across the border. Visa overstays were described as a ''disturbing and persistent problem'' in a report by the Justice Department's Inspector General.

Now, here is the punch line. This was all written on November 8, 1998, in the Dallas Morning News, nearly 3 years before the attacks of 9/11, and approximately 6½ years ago. This visa overstay language is therefore key to this amendment and key to our safety and security.

This amendment is necessary. This language regarding visa overstays makes us safer. I urge my colleagues to support this amendment.

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

The Acting CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. SCOTT of Virginia. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition because we have not studied this. This issue did not come before the committee. We do not know anything about the accuracy of the data that may be circulated. We do not know what it is going to cost. And we particularly do not know whether or not this is a good cost-effective way of providing homeland security. For example, this will do nothing to prevent an Oklahoma bombing, where the problem was domestic.

If we are going to spend money in homeland security, we ought to put it where it is most needed. We have not studied to determine whether this is the best use of the money or not. Therefore, Mr. Chairman, I would hope we would not pass this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, the gentleman is very kind.

Mr. Chairman, I will tell you the NCIC system works. After 6½ years, it is overdue time we tried to do something about the visas.

I will take just a minute to thank the chairman of the Committee on the Judiciary for a great bill. I appreciate so much his support in this, as well as the support of the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. WOLF) and all their good work. We are finally, finally trying to do something about this terrible problem of illegal immigrants.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope we defeat the amendment. As I said, it may or may not, we do not know, be a cost-effective use of the taxpayers' money.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The amendment was agreed to

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109–76.

AMENDMENT NO. 9 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. NORWOOD: Page 22, after line 3, insert the following:

SEC. 116. STUDY.

The Attorney General and the Secretary of Homeland Security shall jointly conduct a study on the connection between illegal immigration and gang membership and activity, including how many of those arrested nationwide for gang membership and violence are aliens illegally present in the United States. The Attorney General and the Secretary shall report the results of that study to Congress not later than one year after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I point to the previous amendment where we talked about estimates a little bit. Well, this is dealing with estimates. This amendment would simply require a study conducted jointly by the Department of Homeland Security and the Department of Justice on the link between illegal aliens and gang membership. Surprisingly, despite the overwhelming agreement from all parties that the two are linked, there is no comprehensive report anywhere that we can find on this topic. It is time for that to change.

Congressional testimony on April 13 of this year produced some important anecdotal evidence of the need of this sort of data. Before the Committee on the Judiciary Subcommittee on Immigration, Marsha Garst offered some statistics in relation to some problems in the Shenandoah Valley of Virginia. She indicated the gangs there are nearly 75 percent composed of illegal aliens. She also related that a number of the illegal alien gang members had been previously deported, proving that we are not doing our job on the borders.

A second witness at the same hearing was Heather MacDonald of the Manhattan Institute. She has research that is helpful to this subject, but somewhat out of date. She indicated that a confidential California Department of Justice study from 1995 said that 60 percent of the 20,000-member 18th Street Gang in Southern California are illegal. Also, that the leadership of the Colombian Lil' Cycos Gang, who control some markets in L.A., was about 60 percent illegal in 2002. ICE officials put the number of illegals among MS–13 members at simply ''a majority.''

We need to do better than just know ''a majority.'' If you are not convinced, just listen to my friend and colleague, the gentleman from Indiana (Mr. HOSTETTLER), who is the Subcommittee on Immigration chairman. He indicated in his statement: ''While there are an estimated 750,000 to 800,000 gang members in the Nation, there are no firm estimates on how many of these gang members are aliens and how many are citizens.'' His point should not go unaddressed.

So we again are saying today that our porous borders are a problem for our citizens. This time it is crime, sometimes deadly in our neighborhoods and streets. Despite this very clear link between gangs and illegal aliens, there is not a study that I located anywhere that addresses this issue.

□ 1600

I think that it is long past due for that to change.

People say that addicts have to first admit that they have a problem before they can move on and get help. This study is a good way for us to finally

admit that we have a major problem and seek ways then to correct the problem. I hope that we will not take too long to seek that help, and I would be happy to assist with a solution, because it is an issue that I have worked on and been very interested in for a long time.

I urge my colleagues to adopt this amendment and help us finally get the facts about the nationwide scope of what we are dealing with in terms of illegal aliens and gang membership.

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

Mr. SCOTT of Virginia. Mr. Chairman, I rise to claim the time in opposition, and I yield myself such time as I may consume.

I would just say, this is interesting timing of the amendment, because we just passed the Goodlatte amendment, and now we are going to study, I guess, whether or not we should have passed it because, as the gentleman from Georgia has indicated, we do not know the link between illegal aliens and gang membership, and so we have to study it. We just passed an amendment to add 5 years mandatory minimum to sentences if a couple of them get into a fist fight. So I guess it is nice to know whether we should have passed it or not, but I just want to point out that it is an interesting place to consider this amendment.

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

Mr. NORWOOD. Mr. Chairman, in conclusion, I will simply say to my friend, the gentleman from Virginia (Mr. SCOTT) that this is not an amendment that justifies or does not justify the previous amendment. This is an effort to get the facts on what we already know. If you ride around at all, you do not have to go very far to determine what the problem is in this country.

I ask all of our colleagues on both sides of the aisle to vote to help protect this country from illegal immigrants.

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, allow me to shock the Members on the opposite side of the aisle and join with them in support of this amendment.

Mas vale tarde que nunca. It means, better late than never. And while my colleague here, the gentleman from Virginia (Mr. SCOTT), is absolutely correct, we have put the cart before the horse, I suppose it is never too late to try and correct our errors.

I do think that we should have been involved in studies a long time ago. We are basically forever speculating and coming up with anecdotes without a basis of facts for our decisions. So I am hopeful that we will get the support of our colleagues in this Congress so that we can study.

While this is limited to the link between illegal aliens and gang membership, we need more studies on gangs, period. We need to find out, number one, where the young people are coming from. What is it about gang membership that entices them to want to be a part of that gang? What are their parents like? Are they the children of those who are already incarcerated? If we had an opportunity to support them getting back into school, moving out of neighborhoods, et cetera, what would happen?

So, again, even though this is a little late in coming, I do support the amendment, and I ask for an aye vote.

Mr. NORWOOD. Mr. Chairman, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Georgia.

Mr. NORWOOD. Mr. Chairman, I would just like to thank the gentlewoman. I hope this will be, and I think it should have bipartisan support, and I am going to call for a vote, because I believe most of us will vote for this.

Ms. WATERS. Mr. Chairman, reclaiming the time, I would hope that the gentleman would also support the idea of a broader study on gangs, period, and that we could identify a number of areas to be looked at. Would the gentleman be interested in that at some point in time?

Mr. NORWOOD. Mr. Chairman, if the gentlewoman will yield, I am interested in doing anything I know we can do to stop gang violence in this country. It is time we brought it to an end, and of course, I am interested in anything about that that might head that off.

Ms. WATERS. Mr. Chairman, I thank the gentleman.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Having heard the distinguished views from my friend, the gentlewoman from California (Ms. WATERS) and the gentleman from Georgia (Mr. NORWOOD), I am convinced that the amendment is well taken, however misplaced in time. We should have considered this before the gentleman from Roanoke, Virginia, but as my colleague has said, better late than never.

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

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. NORWOOD. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) will be postponed.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 10 printed in House report 109–76.

AMENDMENT NO. 10 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. WATERS:
Strike section 102.
Strike section 103.
Strike section 104.
Strike section 105.
Strike section 106.
Strike section 107.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of my amendment. Mr. Chairman, the gentleman from Virginia (Mr. SCOTT) and I have offered an amendment that would strike all of the mandatory minimum sentences in H.R. 1279, the Gang Deterrence and Community Protection Act. The mandatory minimum sentencing requirements found in sections 102, 103, 104, 105, 106 and 107 are simply not the answer to gang deterrence.

Mr. Chairman, all of us know that mandatory minimum sentencing has not worked, and it does have a huge disproportionate impact on minorities. Just to name a few statistics, African-Americans only comprise 12 percent of the United States population; however, they comprise a staggering 58 percent of all prisoners incarcerated under Federal mandatory minimum sentences. There is something wrong with this picture.

Mandatory minimums are not even effective in deterring crime. Their only proven result is in driving up our prison populations, resulting in overcrowding and the need for the creation of more prisons. Increasing prison populations is not the solution to the prevention of crime in our communities, even communities infested with gang crime.

Mr. Chairman, mandatory minimums also impede on the role of our judges. We need to let judges be judges and ensure that they have the discretion to sentence criminal defendants in a manner that takes into account all of the facts and circumstances that are presented before them. Clearly, this must include an evaluation of any mitigating circumstances, such as the defendant's childhood experience, especially if the defendant is a juvenile; the mental state of the defendant; the role that the defendant played in the commission of the crime; the mental capacity of the defendant; the crime committed; whether force or a firearm was used during the commission of the crime; and whether a victim lost his or her life and was seriously maimed as a result of the crime. The mandatory minimums under H.R. 1279 would make it impossible for trial judges to fairly and fully evaluate the cases before them, because these sections overreach

into the State court's authority and remove the judge's sentencing discretion.

Mr. Chairman, to be tough on gangs, we must focus more on gang crime prevention. We need to implement more effective prevention tactics that focus on both individuals at risk of joining gangs and on former gang members at risk of rejoining a gang after being released from prison. Also, educational and rehabilitation programs for communities with gangs that have a high crime rate need to be implemented. We should focus our attention on what works.

I urge all of my colleagues to please support my amendment and to strike all of the mandatory minimum sentences included in H.R. 1279.

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

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 10 minutes.

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

This amendment would essentially strip the bill of vital and necessary weapons that prosecutors and law enforcement need to win the war against violent gangs. In particular, and I ask that everyone pay close attention to this, the amendment would eliminate increased penalties and mandatory minimum penalties for the following crimes: interstate and foreign travel or transportation in aid of racketeering, carjacking and illegal gun transfers to drug traffickers or violent criminals, murder for hire or other felony crimes of violence, violent crimes in aid of racketeering activity, murder or other violent crimes committed by drug traffickers and multiple interstate murderers.

These people belong in jail. Just listen to the types of crimes that the mandatory minimums and enhanced penalties apply to.

When considering this amendment, it is important to recognize just how much of a problem gangs represent today. Just take the City of Chicago. The U.S. Attorney for Northern Illinois, Patrick Fitzgerald, testified and described the gang problem in Chicago: ''It is easy to underestimate the grip that gangs have on some of our cities, but the sad reality is that their grip on urban life is lethal. First, the sheer number of gang members is staggering. In Chicago alone, there are estimated to be 70,000 to 100,000 gang members, compared with about 13,000 Chicago police officers. Several ''super gangs'' dominate: The Gangster Disciples, the Black Disciples, the Vice Lords, the Black P Stones, the Mickey Cobras, the Latin Kings, the Spanish Cobras, the Maniac Latin Disciples and the Satan Disciples. All of these gangs control large amounts of territory, engage in large-scale drug trafficking and use gun violence to control their territory and drug trade.''

Unfortunately, my colleagues ignore the practical reality of this problem by trying to take away new and valuable tools for law enforcement and prosecutors such as mandatory minimum penalties.

U.S. Attorney Fitzgerald again explained, ''It is important to maintain heavy penalties on gang members, particularly higher-echelon members and those engaging in violence, to deter violent activity and to leverage cooperation from gang members who are already conditioned to understand they will do some prison time but often cooperate when faced with heavier prison time. Cases against gangs proceed most effectively when the heavy penalties cause key members of the gang to work with authorities to dismantle the organization. Ultimately, severe sentencing of gang members results more quickly in greater freedom for the community victimized by the gangs.''

Heavy penalties mean more cooperation to people on the fringes. Mandatory minimum penalties and heavier sentences result in more quickly and greater freedom for the community victimized by the gangs. This amendment is the anti-community freedom amendment and should be defeated.

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

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of our subcommittee.

Mr. SCOTT of Virginia. Mr. Chairman, I want to remind Members of the House that murders are already illegal. Intentional murder subjects you to either the death penalty or mandatory life. Racketeering and those other charges are illegal. The mandatory minimums in the bill apply to second-offense fist fights, and I guess if you are an illegal immigrant, you get an additional 5 years mandatory minimum.

If that is not enough, Mr. Chairman, we have already said that, for those 25 to 29 in the African-American community, 1 out of 8 are already in jail today. Apparently, that is not enough penalty, and we need to increase it.

The Sentencing Commission has studied the impact of mandatory minimum sentences and have found that they not only violate the entire purpose of the Sentencing Commission, but they are also applied in a racially discriminatory manner. We also have found, Mr. Chairman, that the Rand Corporation has studied mandatory minimums and found that it is not a cost-effective sentencing scheme. They found that compared to a more intelligent scheme where the more serious criminals get more time and less serious get less time, mandatory minimums are less effective in reducing crime. They are also much less effective than drug rehabilitation for drug penalties. So we have the Rand Corporation designating mandatory minimums as a waste of the taxpayers' money.

The Judicial Conference of the United States, the Chief Justice of the United States presiding, has written us a letter saying, not only that trying juveniles as adults is bad policy but also the mandatory minimums, and they have maintained opposition to mandatory minimums since 1953. They write: The reason is manifest. Mandatory minimums severely distort and damage the Federal sentencing system. Mandatory minimums undermine the sentencing guideline regime Congress so carefully established in the Sentencing Reform Act of 1984 by preventing the rational development of guidelines that reduce unwanted disparity and provide proportionality and fairness.

□ 1615

Mandatory minimums also destroy honesty in sentencing by encouraging charge and fact plea bargains. In fact, the U.S. Sentencing Commission has documented that mandatory minimums have the opposite of their intended effect. Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity.

Mandatory minimums also treat dissimilar offenders in a similar fashion, although these offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

Finally, mandatory minimums require the sentencing court to impose the same sentence on offenders when sound policy and common sense call for reasonable differences and punishment. Accordingly, we respectfully request that the expansion of the Federal criminal justice system over juvenile offenders be seriously reconsidered, and that the mandatory minimum sentences provision in the bill be removed.

Mr. Chairman, that is exactly what this amendment does, and I would hope that the amendment would be adopted.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I just wish today that we would hear the same passion for the victims of gang crimes as we have heard on the other side for those who commit violent gang crimes. You know, we have heard a lot about the cost of locking up violent gang criminals. But I have not heard a whole lot about the cost of leaving them in our neighborhoods to create more crimes and leave repeated paths of victims.

We just heard about common sense. Well, let me tell you about common sense. Common sense is that you are not going to stop these violent gang criminals by giving them a Popsicle and a hug. You stop them by getting them off the streets.

Let us make it clear that we do not believe there is any socially redeeming value for belonging to a violent criminal gang. What mandatory sentences do is they set out clearly a policy that we say, if you are going to belong to

one of these gangs, you take the consequences; that if you commit one of these gang crimes, you are going to pay a price. You cannot just roll the dice.

Now, our opponents will tell you it is already illegal to do some of these acts. They miss the point. Our whole purpose is to keep those acts from being committed in the first place by getting rid of the gang networks. They believe, they have argued here the way you do that is by giving arts and crafts to members of these violent gangs. We just respectfully disagree.

We believe that the way you do it is by bringing down the criminal gang networks and the criminal gang leaders. Mandatory sentences do that by giving those individuals who commit gang crimes a choice. They can either spend a long time in jail, or they can help us bring down the networks that are praying on our communities.

Mr. Chairman, I hope we will reject this amendment and will pass the bill.

Ms. WATERS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

(Ms. VELÁZQUEZ asked and was given permission to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong opposition to this bill, which offers no solution to our Nation's gang violence problem, and in support of the Waters-Scott amendment which strikes the mandatory sentences provisions.

Clearly, in many neighborhoods throughout our country, we have a gang violence problem. Yet dramatically increasing prison terms and failing to fund proven strategies to reduce youth violence is exactly what H.R. 1279 does.

Violence in gangs is a critical problem, persistent among low-income and minority communities. Today we see that 95 percent of the largest cities and 88 percent of the smaller cities are confronted with gang-related crimes. More and more younger kids are joining gangs. But no value of hope is given to these children seeking a way out of the gang activity. We must face this reality, rather than hide from it.

It seems to me that the only solution being offered by this legislation to our juveniles involved in gangs is locking them into a life path where there is no way out. Whatever happened to gang prevention programs, to the funding desperately needed for delinquency and intervention programs?

If we want to deter gang violence and protect our communities, we need to focus on effective and comprehensive solutions to address the root causes of youth violence, not simply punitive actions.

Mr. Chairman, passing this bill will do nothing to stem the tide of gang violence throughout this country. What this bill will do is worsen our youth's violent behavior by enslaving our youngsters into prison as an answer to one of this Nation's most critical problems, and that is no solution at all. I urge my colleagues to support the Waters-Scott amendment and to oppose the underlying bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, I am a cop. I wear a congressional pin, but I always will live and breathe and think like a cop.

I have worked the streets for 33 years. Up until January 3 of this year I was a police officer. In the early 1990s, gangs were a huge problem in this country; and we worked hard and passed local tough laws to address the gang issue. And we had success. The crackdown by cops across the Nation in the early 1990s did break the backs of gang activity. And today we need tough laws to continue fighting gang violence and the resurgence of gang activity.

These gangs today are more violent. They are committing murders, rapes, and robberies. Cops need tough laws to help them. They need to know that local governments, State governments, and the Federal Government is behind them with tough laws to help them break the backs of gangs.

A few years ago I lost a good friend, an officer who worked in the Seattle area. He stopped his police car, opened his car door, stood by the front of his police car, and was approached by three gang members. The job that night, the assignment that night by these gang bangers, kill a cop. And they did. They fired the bullet into the cop's head, and he died.

Mr. Chairman, I urge my colleagues to pass this bill and protect the lives of citizens of this great country.

Mr. Chairman, I am a cop. I wear a Congressional pin, but I will always think like a cop, live and breathe as a cop.

I have chased these gangs, I have worked to shut down these groups and these were not innocent children. I absolutely believe in protecting our children and giving them a chance, teaching them right from wrong and allowing them to make mistakes. I believe in doing that while they are young. We should be educating our children, teaching them responsibility and raising them to be better men and women than we are.

But I believe once that foundation has been laid, they are responsible for their actions. It is a harsh world and I have seen it first hand. I have watched young women turn to prostitution. I have picked them up from their beats and taken them to shelters and tried to help them find a way out of that life. I've had success too. But ultimately, they are responsible for themselves and their choices. I am a compassionate man, but I firmly believe that respect stems from responsibility. And no one—not you, me, not any of these youths in gangs are without responsibility.

The members of these gangs consciously choose to act out against their communities. They dispense the violence; no one forces them to do so. That type of influence is like a cancer. These gangs seep into young men and women and corrupt them. They erode the good of our neighborhoods and destroy lives. Our communities need to be safe. In order to be safe, we need to stop this cycle before it begins. Mandatory minimums enforce that gang members and their theft, prostitution, weapons and drugs will not be tolerated. They will be dealt with to the fullest extend of the law.

In May of 2001, Des Moines patrol officer Steve Underwood was shot to death and killed after approaching a car with four gang members on a late-night watch along Pacific Highway South. Shot to death simply in approaching the car, this is what we have progressed to.

Last night I spoke with King County's Gang Detective, Sheila Hatch. In the course of our conversation, she raised mandatory minimums. She said that the only way for our prosecutors to effectively go after gang leaders when the cops manage to bring them down is with a strong penalty. Our laws need to be effective to stop and make them think of consequence before they commit a crime. The cost of their crime sprees should not be simply an afterthought.

Mr. Chairman, we need mandatory minimums. I am telling you that first hand, as someone who worked on the streets to stop gangs. I urge my colleagues to vote ''no'' against the Waters-Scott amendment.

Ms. WATERS. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, if you kill a police officer you are going to get death or life without parole. If you make any murder in the Federal system you are looking at life. If you are talking about the impact of this bill, it is a 10-year mandatory minimum for second-offense fist fights.

We have been asked where our compassion is for the victims. We have got mandatory minimums where you already know that it violates common sense, it wastes the taxpayers money, it fails to do anything about reducing crime. That is what the studies have shown. Trying juveniles as adults we know increases crime.

That is a good question. Where is your compassion for the victims when you are actually increasing crime? We know what works to reduce crime. We know what polls well, and what we need to do is have some compassion for common sense and actually enact those provisions that will reduce crime.

We know that prevention and early intervention work. You know, you can make jokes about it; but we know what works and we know what polls well. If we are going to show some compassion for our victims, we ought to do something to actually reduce crime.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it is important for me to say on behalf of most of the Members, if not all of the Members of the Congress of the United States of America, we are all against crime. We do not support criminals. We are indeed passionate about victims. We want hard-core criminals off the streets.

What we do not support is using this terrible issue to get your law and order

credentials on. We do not want you using this issue on the backs of young people who may be victims of gangs rather than criminals themselves.

Let me just say this: we are against mandatory minimum sentencing because it takes away the discretion of the judge. The judge may give more time, given all of the facts. And, yes, they may give less time, given all of the facts.

We need to let judges be judges. We cannot sit here in the Congress of the United States and continue to take away the ability of judges to make decisions. So I stand here today with this amendment to say, let the judges make the decision.

You do not know if there is a kid who happens to live in a neighborhood that is infested with gang members and they must pretend to be in the gang in order to survive. Do you want that kid caught up in a situation where they are going to be given mandatory minimum sentencing, when they did not have an opportunity to have a judge understand what the extenuating circumstances were?

I do not think that is good legislating, nor is it good public policy. I would ask my colleagues to please support this amendment.

The Acting CHAIRMAN. The time of the gentlewoman from California (Ms. WATERS) has expired.

Ms. WATERS. Mr. Chairman, does the gentleman from Wisconsin (Mr. SENSENBRENNER) have any more time, because I wish to make a statement on this bill prior to the close of debate.

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to yield one of those minutes to my friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, let me just say this. I am not going to allow my amendment to get caught up in the politics of the day. I know that there are people who are just salivating for this amendment to remain on the floor so they can catch Democrats voting for something that they will use in their campaigns.

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Waters/Scott Amendment which strikes out all mandatory minimums in H.R. 1279. The mandatory minimums proscribed in this legislation will only result in many young people serving long sentences, at least ten years, based on the circumstances of rather than the crime itself. Perhaps it is no surprise that mandatory minimums have come under criticism for being discriminatory in nature.

The enormous monetary and human costs associated with incarceration simply outweigh the supposed benefits of the proposed legislation. It is well known that incarceration costs American taxpayers millions of dollars each year, what is not as widely known is that it also costs millions to reintegrate those released from prison back into society. Additionally, as suggested in the recent Booker decision, judges often refuse to hand down mandatory minimums if they feel that they are draconian. With the proposed changes, we may even see juries unwilling to convict an obviously guilty defendant if they know that doing so will result in ten years' imprisonment. Creating laws that are likely to go un-enforced will not foster faith in the criminal justice system or help take down gangs.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Waters/Scott amendment to H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. If the Waters/Scott amendment is defeated I would urge my colleagues to oppose the underlying bill because it broadens the definition of gangs and metes out even harsher punishments for offenses that already have very long sentences.

Mr. Chairman, the Scott/Waters amendment strikes those sections of the bill which set mandatory minimum sentences. I agree with the National Association for the Advancement of Colored People, (NAACP) who propose that by increasing the number of crimes that have mandatory minimum sentences, and stiffening those sentences, the bill will exacerbate the already troubling and offensive racial disparities in the criminal justice system.

According to Families Against Mandatory Minimums, such ''sentences are bad regardless of the crime because they prevent judges from making distinctions between defendants and sentencing them according to their culpability. Instead, mandatory minimums impose one-size-fits-all sentencing, which guarantees injustices''

In my district the US Virgin Islands we are in the midst of gang violence amongst our young males. Over the years, through various preventative programs within our law enforcement community and amongst private organizations, we have seen a difference in behavior within our teen population as it pertains to conflict resolution. Prevention is truly the best cure in this situation not inflexible mandatory minimum sentences

I urge my colleagues to support the Waters/Scott amendment.

Ms. JACKSON-LEE of Texas. Mr Chairman, I rise in support of the Waters amendment. Terrorism is solved with intelligence, prevention not simple mandatory minimums.

Since the enactment of mandatory minimum sentencing for drug users, the Federal Bureau of Prisons budget increased by more than 2,016 percent, from two hundred twenty million dollars in 1986 to about four billion four hundred thirty seven million dollars in 2004.

African Americans comprise 12 percent of the United States population, 15 percent of drug users, 17 percent of cocaine users, but 33 percent of all Federal drug convictions and 57 percent of Federal cocaine convictions.

In 1986, before the mandatory minimums for crack cocaine offenses became effective, the average Federal offense for African Americans was 11 percent higher than whites. Following the implementation of mandatory drug sentencing laws, the average drug offense sentence for African Americans was 49 percent higher than whites.

Largely as a result of mandatory minimum sentencing statutes, there are now more than 2,100,000 persons in prison and almost 70 percent of the people behind bars in America are persons of color. African Americans made up 40 percent of the Federal prison population in August, 2003, up from 31 percent in 1986 before Federal mandatory minimums were enacted.

As a result of mandatory minimum sentencing statutes, particularly with respect to drug crimes, in 2001, the average Federal drug trafficking conviction was 72.7 months while the average Federal manslaughter sentence was 34.3 months the average assault sentence 37.7 months, and the average sexual abuse sentence 65.2 months.

In 1999, African Americans constituted 13 percent of drug users. In that same year, African Americans constituted 35 percent of drug arrests, 53 percent of drug convictions, and 58 percent of those in prison for drug Federal mandatory minimum sentences make African Americans more likely to be incarcerated and for longer periods than their white counterparts.

In the year 2000, 84.7 percent of crack cocaine cases were brought against African Americans even though, in that year, African Americans comprised only about 26.6 percent of crack users. Only 5.6 percent of crack cases that year were brought against Caucasians even they constituted 64.4 percent of crack users.

In the 20 years from 1981 to 2001, the sentenced portion of the Federal prison population grew from about 20,000 in 1981 to about 115,000 prisoners. During that same period, the percentage of drug offenders in Federal prison grew from 25 percent to almost 60 percent. Mandatory minimum sentences for drug crimes are the largest drivers of expanding prison populations.

Due to harsh sentencing guidelines, such as the 'three-strikes, you're out, provision', a disproportionate number of young black and Hispanic men are likely to be imprisoned for life under scenarios in which they are guilty of little more than a history of untreated addiction and several prior drug-related offenses . . . States will absorb the staggering cost of not only constructing additional prisons to accommodate increasing numbers of prisoners who will never be released but also warehousing them into old age.

We all know and are stunned by the staggering statistic cited in the September 2002 issue of the journal Racial Issues in Higher Education, that, at that time, there were more African American males in prison than in college. Mandatory minimums are driving this growth in federal prison populations.

Mandatory minimum drug sentences are also resulting in the disproportionate lengthy incarceration of young African American women. From 1986 (the year mandatory sentencing was enacted) to 1996, the number of women sentenced to state prison for drug crimes increased ten fold and has been the main element in the overall increase in the imprisonment of women. Ninety five percent of female arrests from 1985 to 1996 were drug related and over 80% of female prison inmates are incarcerated as a result of their association with abusive boyfriends.

Terrorism requires a more comprehensive approach along with major immigration reform not just mandatory minimums.

Ms. WATERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 7 offered by the gentleman from Virginia (Mr. GOODLATTE), amendment No. 9 offered by the gentleman from Georgia (Mr. NORWOOD).

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT NO. 7 OFFERED BY MR. GOODLATTE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 159, not voting 8, as follows:

[Roll No. 165]

AYES—266

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schiff
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—159

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (GA)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Castle
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Green, Al
Grijalva
Gutierrez
Hinchey
Hinojosa
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Smith (WA)
Solis
Stark
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn

NOT VOTING—8

Berkley
Bishop (UT)
Hastings (FL)
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1649

Messrs. SWEENEY, TIERNEY, CARNAHAN, UPTON, DOYLE and Mrs. MALONEY changed their vote from ''aye'' to ''no.''

Ms. SLAUGHTER, and Messrs. CASE, BISHOP of New York, STRICKLAND and INGLIS of South Carolina changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. NORWOOD

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 395, noes 31, not voting 7, as follows:

[Roll No. 166]

AYES—395

Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris

Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—31

Abercrombie
Ackerman
Baldwin
Conyers
Davis (IL)
Delahunt
Dingell
Filner
Grijalva
Gutierrez
Holt
Honda
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
McDermott
McGovern
McKinney
Nadler
Oberstar
Olver
Owens
Pallone
Payne
Rangel
Sánchez, Linda T.
Schakowsky
Serrano
Solis
Stark

NOT VOTING—7

Berkley
Hastings (FL)
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1658

Mr. PALLONE and Ms. KILPATRICK of Michigan changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1700

The Acting CHAIRMAN (Mr. LAHOOD). There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. REHBERG) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes, pursuant to House Resolution 268, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. TIERNEY

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

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

Mr. TIERNEY. I am in its present form.

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

The Clerk read as follows:

Mr. Tierney moves to recommit the bill H.R. 1279 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 22, after line 3, insert the following:

SEC. 116. PROHIBITION OF PROFITEERING.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq

''(a) PROHIBITION.—

''(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with the war, military action, or relief or reconstruction activities in Iraq, knowingly and willfully—

''(A) executes or attempts to execute a scheme or artifice to defraud the United States or Iraq;

''(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(C) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

''(D) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq;

shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

''(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

''(A) $1,000,000; or

''(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) as authorized by chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1037''.

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: '', section 1037 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq),'' after ''liquidating agent of financial institution),''.

Mr. TIERNEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

Mr. TIERNEY. Mr. Speaker, my motion to recommit is simple and straightforward and deserves the support of every Member of this body. It would amend the criminal code to prohibit defrauding the government in connection with the reconstruction efforts in Iraq.

My motion would make it clear that these outrageous and unpatriotic activities would be subject to prison time and monetary penalties. Every single

dollar that is wasted because of corporate fraud or abuse in Iraq is one less dollar that can go to protect our troops, one less dollar for body armor, one less dollar for protective equipment that can save lives.

It is an unfortunate fact of life that, today, in Iraq, taxpayer funds are being routinely wasted by organized corporate criminals. The American taxpayer is being defrauded by a system of distributing funds that is totally unaccountable. This not only demeans and cheapens the sacrifices that our military and civilian personnel are making in Iraq, it endangers their lives.

Mr. Speaker, just last week, the House spent another $82 billion of taxpayer funds on the war. The cost of the war had already been over $200 billion. We also learned this week that the Pentagon auditors found that $212 million was paid to Kuwaiti and Turkish subcontractors for fuel the Pentagon auditors concluded was exorbitantly priced. Halliburton passed these payments onto the taxpayer.

That may be just the tip of the iceberg, as billions of dollars are being expended in Iraq with precious little accountability. While there are fraud statutes to protect against wasted tax dollars at home, none expressly prohibit war profiteering, and none expressly confer extraterritorial jurisdiction overseas, as my motion would do.

Against this backdrop, it is imperative that this Congress send a strong signal that we will not tolerate taxpayer rip-offs at the expense of our troops. I offer this amendment now because this bill before us is open ended as a crime bill. It not only deals with gangs but it amends the criminal laws on matters concerning hearsay, venues, statute of limitations and sentencing. It also authorizes new grants and databases, among other things. If we are going to do all of this, it certainly is appropriate that we also amend the criminal laws to combat blatant contract fraud in Iraq to protect our brave troops.

When concerns about wartime fraud were raised during World War II, President Roosevelt declared it was our duty to ensure that a few do not gain from the sacrifices of the many. Then, as now, our government cannot in good faith ask its people to sacrifice for reconstruction efforts that allow so many others to unfairly profit.

Mr. Speaker, I urge a ''yes'' vote on this commonsense motion to recommit.

Mr. FORBES. Mr. Speaker, I rise in opposition to the motion to recommit.

I thought I had heard everything this morning, Mr. Speaker, when, in the debate, we heard the opponents of this bill say that they felt that they could fight violent gang crime better by using arts and crafts than they could by locking up violent criminals, but I am shocked now that they are even bringing in Iraq.

If you look, Mr. Speaker, the Department of Justice, I am sure, is going to investigate the matters that are in this motion to recommit. There has not been a shred of evidence or testimony in any subcommittee or full committee about this bill related to anything in this motion to recommit. We have not heard a single discussion on it on the floor today. We have heard one poison pill after another to try to stop us from going after violent criminal gangs. There have even been amendments to try to offer loans to gang members, to give housing to violent gang members.

Mr. Speaker, it is time we stopped playing games with this bill and we pass it and go on to try to deal with these violent gangs. I want to remind the House that the Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs Association, the Major County Sheriffs Association, the Law Enforcement Alliance of America, National Troopers Coalition, Federal Criminal Investigators Association, California Gang Investigators Association, National Latino Peace Officers Association, the New Orleans District Attorney, the Los Angeles Deputy Sheriffs, and 63 chiefs of major police departments around the country support the bill as it is. I hope we will defeat the motion to recommit and pass H.R. 1279.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. TIERNEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 198, noes 227, not voting 8, as follows:

[Roll No. 167]

AYES—198

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

NOES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo

Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Berkley
Hastings (FL)
Larson (CT)
Meeks (NY)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1725

Mr. GILLMOR changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. REHBERG). The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 279, nays 144, not voting 10, as follows:

[Roll No. 168]

YEAS—279

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Edwards
Emanuel
Emerson
English (PA)
Etheridge
Everett
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hobson
Hoekstra
Holden
Hooley
Hoyer
Hulshof
Hunter
Hyde
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Murtha
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Watson
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—144

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Bartlett (MD)
Becerra
Berman
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carson
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cubin
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Duncan
Ehlers
Engel
Eshoo
Farr
Fattah
Filner
Flake
Frank (MA)
Garrett (NJ)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hensarling
Hinchey
Hinojosa
Holt
Honda
Hostettler
Inglis (SC)
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Manzullo
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McHenry
McKinney
McNulty
Meehan
Menendez
Michaud
Miller, George
Mollohan
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Pitts
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shadegg
Sherman
Sherwood
Smith (WA)
Snyder
Solis
Stark
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Wamp
Waters
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—10

Berkley
Evans
Feeney
Hastings (FL)
Larson (CT)
Meeks (NY)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1735

Mr. SNYDER changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Wednesday, May 11, 2005 to vote on rollcall vote Nos. 164, 165, 166, 167 and 168 due to a family medical emergency.

Had I been present, I would have voted: ''no'' on rollcall vote No. 164 on Ordering the Previous Question on H. Res. 268; ''no'' on rollcall vote No. 165—an amendment to H.R. 1279; ''yea'' on rollcall vote No. 166—an amendment to H.R. 1279; ''yea'' on rollcall vote No. 167 on the Motion to Recommit H.R. 1279 with instructions; and, ''no'' on rollcall vote No. 168 on passage of H.R. 1279—Gang Deterrence and Community Protection Act of 2005.

ABUSE OF POWER

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

Ms. WOOLSEY. Mr. Speaker, the level of abuse in this House by the Republican Party has become an embarrassment. Instead of working on the pressing problems of this Nation, my colleagues on the other side of the aisle continue to push an agenda controlled and influenced by special interests.

According to a report released by the gentlewoman from New York (Ms. SLAUGHTER), the Committee on Rules' ranking Democrat, all of the major bills passed by the Republican Party in the 108th Congress were written with big business or special interests in mind. These interest groups do not look at what is best for the American people. They look at what is best for their bottom line. If the Republican Party is as compassionate as they profess to be, they would be writing legislation that protects workers from harm and even death, not dismantling OSHA in order to save big business money. They would be helping families get paid sick leave and family leave rather than focusing on rolling back family and medical leave protections to save businesses money on the backs of working people.

LET US FOCUS ON THE PEOPLE'S BUSINESS

(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, to refute the comments of the previous speaker suggesting we are captives of special interests, that we are not doing the people's work, I will beg to differ.

I see a lot of progress here. But I also see a lot of name calling that I think is unfortunate and unnecessary. Pointing fingers, trying to catch each other in scandal does not bring honor to this House. So they can give their statements and they can give their quotes and they can make soundbytes, but the American public are worried about health insurance. They are worried about gas prices. They are worried about our soldiers in Iraq. They are worried about terrorism. And we should be working on that as Democrats and Republicans. But, instead, we sit here and make accusation, innuendo and create diatribe. We are much better than that.

We had an emergency evacuation today. We are on pins and needles based on the real terrorist threat that exists, and we are just becoming name callers.

So I urge all of us, both sides, to take a moment, pause and honestly focus on the people's business, not on trying to score cheap political points.

IN SUPPORT OF MEDICARE FOR ALL

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. REHBERG). Without objection, the gentleman from Ohio is recognized for 1 minute.

There was no objection.

Mr. KUCINICH. Mr. Speaker, I want to agree with the gentleman from Florida that the American people are worried about many things including health care. And that is why I stand to ask the House for support on H.R. 676, a bill that will establish a U.S. national health insurance.

A Kaiser Foundation poll found that 64 percent of Americans favor expanding Medicare to all. The Deans of Harvard and Stanford Medical Schools, 13,000 doctors, including the former editor of the New England Journal of Medicine and two former Surgeons General now support Medicare for All.

By expanding Medicare to all, we will contain costs. Medicare boasts 3 percent overhead. In contrast, the Medicare HMOs, 15 to 30 percent overhead. Medicare also has a much lower rate of spending increase than private health plans.

Medicare for All will make the U.S. more competitive. GM and Ford are losing money in competitive advantage because other developed countries have universal health care. Ontario now makes more cars than Detroit. Canadian GM, Ford and other auto manufacturers have sent a letter in support of their single-payer health care system as a result.

All over this country, Americans are looking for some help from the Congress of the United States on health care. It is time for us to come together, Democrats and Republicans alike, in defense of universal health care, Medicare for All.

HONORING MR. SANFORD WALKE, PURPLE HEART RECIPIENT

(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 honor Mr. Sanford Walke of Hernando Beach, Florida. He was the chief engineer in the army during World War II, and Mr. Walke recently was a person to whom I presented the Purple Heart for his heroic actions in battle.

On a flight over Germany on July 8, 1944, Mr. Walke's plane was shot down over France. The last one to jump out of the plane, he was forced to open his parachute over enemy territory. He was then taken as a Prisoner of War and held in a German prison camp. He was put on long and arduous marches until he was able to escape with another British soldier months later. The two soldiers were hiding in a barn in a German village when the British tanks rolled in and took over the town. Thankfully, the British took care of him until he was able to reunite with his American soldier buddies.

Mr. Speaker, true American heroes like Sanford Walke should be honored for their service to our Nation and for their commitment and sacrifices in battle.

COMMENDING CAPITOL POLICE AND OTHER PERSONNEL FOR THEIR PROFESSIONALISM IN EVACUATION

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

Mr. ENGEL. Mr. Speaker, I want to, first of all, commend the Capitol Police and all the other personnel who did such a fantastic job when we had the evacuation earlier today.

It is never good, obviously, to have this kind of evacuation. But when we were kids in school, we had fire drills and things like that, and we wanted to see how well it was done. Today, it was done in a very professional way. And, thank God, it really was not a threat, but it is nice to know, when we need to leave, we can.

So I want to just take the time to thank the Capitol Police and to all the personnel who worked with us here in making sure the evacuation was smooth and nobody was hurt. Responding to the threat and the threat over the aerospace was swift. And I think all of us as people who work at the Capitol can sleep a little better tonight knowing that our very highly trained personnel really had things under hand. It again shows the American public why we all need to be prepared for terrorism and why this is a new world, and I think that we are meeting the task. Again, I want to thank all those concerned.

□ 1745

TIME TO PROVIDE HEALTH CARE FOR ALL AMERICANS

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

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Florida got up here and talked about the fact that we should work together as Democrats and Republicans. Let us have a little review of history, and I think the gentleman was here when it all happened.

In 1993 and 1994, President Clinton presented a health care plan for every American. The Republicans took the position that any plan run by the government was a bad one, and they took pride and bragged in the next election over the fact that they had killed the Clinton health care plan.

Now, 1994 is more than 10 years, and we have yet to see any proposal come out of the Republicans. Not a single member of the Republican caucus has been able to get a hearing or lay a bill before a committee. There are many of us who put bills before the Congress. The gentleman from Ohio (Mr. KUCINICH) put one forward, I put one forward, as did the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL).

Where are the Republican proposals to do anything about the American people's health care problem? It is the number one cause of bankruptcy. It is time.

MAKING AMERICA MORE COMPETITIVE

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

Mr. TIAHRT. Mr. Speaker, Yogi Berra said that predictions are hard to make, especially when they are about the future. But that does not mean we should not look ahead. In fact, if you do sit down and think about what America is going to be like 5, 10, 20 years from now and how our economy is going to be in relationship to the rest of the world, I think we should all be very concerned.

Right now, China is in the beginning stages of trying to start an Asian Union, much like the European Union,

where the yuan is the euro or the monetary means. They are trying to combine the people in Southeast Asia, which could make an economy of about 3 billion people. The European Union is now absorbing new European countries, plus they have a natural bond to the Islamic world based on their current immigration trends, and they could easily develop an economy of 1 billion people.

So if you look downstream, the very likely position for our economy could be third place, unless, unless, we change the environment here in America.

Last year we had a trade deficit of $671 billion and a Federal deficit. If we are going to bring jobs back to America, we have to change the environment by making our country more competitive.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

SEEKING JUSTICE FOR VICTIMS OF SYRIAN OPPRESSION

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

Ms. ROS-LEHTINEN. Mr. Speaker, today I wish to call the attention of the Members to the important cause of defending the human rights of the Syrian people and holding the Syrian regime accountable for the most deplorable actions against its citizens.

Syria is an oppressor state in every sense. It brutally stifles its political dissidents and minority groups. It denies its ordinary citizens freedom of religion, of conscience and belief. It seeks to silence its people by preventing them from exercising their right of free speech. It discriminates against women, condoning violence and sexual assault against them.

The police continue to detain people arbitrarily, placing them in prisons and torturing them, using methods that seem to herald back to the return of the Middle Ages, stretching prisoners on racks or fracturing their spines on wheels.

Since 1963, Syria has ruled under emergency law, using the hollow excuse of Israel being a threat, and using that to suppress freedom, diversity of opinion, and equality between religions and between sexes.

About 600 Lebanese detainees have been languishing in Syrian jails since 1989. Those who have managed to escape bring harrowing stories with them that they have told to the international human rights community. They must be released immediately.

In an event that defies comprehension, in 1982, Rifaat al-Assad, the brother of then dictator Hafez al-Assad, turned his Soviet-made guns against the Syrian city of Hama. When the dust settled approximately a week later, the death toll of innocent civilians had reached 30,000 people.

The perpetrators of this massacre, including Rifaat al-Assad, who resides in Marbella, Spain, have received no punishment and live amid absolute luxury. Their comfortable lifestyle is an affront to the Syrian people and to all of humanity.

Another of the perpetrators to be held accountable is Ghazi Kanaan. He headed the military intelligence unit responsible for clearing the way for the massacre at Hama. He also later became the Syrian top intelligence man in Lebanon and reportedly built all of the intelligence units responsible for killing Lebanese Christians and imprisoning many other innocent Lebanese.

Bahjat Suleiman is the head of Unit 251 in the General Directorate of the Intelligence Services. Some of the crimes against the Syrian people were detailed in H. Con. Res. 18. This resolution, which I authored, was overwhelmingly adopted by my colleagues in the House, clearly illustrating our body's commitment to holding the Syrian dictatorship accountable for the systematic attacks against the Syrian population.

Inaction on our part is not an option. The cost of failing to address this grim reality sooner can be measured by the rising number of Syrian and Lebanese men and women that the Syrian Government has killed or tortured.

Today, the Syrian people, the dissidents and the peaceful opposition leaders, are poised to act. They are demanding that the Syrian Government release all prisoners of conscience and that it allow for the winds of reform to sweep through its corrupt system. U.S. policy must support the Syrian people, its dissidents, human rights activists, and pro-democracy advocates so that they, too, could free themselves from the shackles of tyrannical rule.

In that vein, I recently introduced the Lebanon and Syria Liberation Act that contains provisions calling for the establishment of a program of assistance to pro-democracy advocates and opposition groups in Syria and Lebanon. It also establishes a program to develop independent broadcasts into Syria and Lebanon to help promote freedom and democracy in both countries.

The act sends a message to the Syrian Government that the United States will not stand for its unacceptable behavior in violation of all moral and legal standards. This legislation, with its concrete measures to punish the Syrian regime, clearly demonstrates to the Syrian people that America stands with them in their efforts to free themselves from the shackles of tyranny and to help them build an open society based on democratic values and principles.

We must honor the brave men and women of Syria by acting to defend their right to live as free men and women. We must begin by ensuring that the Syrian regime and its leaders are made to pay for their crimes against the Syrian people. We must support efforts to seek justice for the victims of Syrian oppression.

HONORING THE LIFE OF CONGRESSMAN PETER RODINO, JR.

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

Mr. PASCRELL. Mr. Speaker, on Saturday, May 7, I lost a friend, a constituent, and an inspiration. Many of you in this Chamber knew and worked with Peter Rodino, a former Congressman from Newark, New Jersey. For those who did not know him, you undoubtedly recall his service or have read about his life and illustrious career in public service.

Congressman Rodino is most well-known for the role he played in the impeachment hearings of President Richard Nixon. He demonstrated a dignified image of Congress at a time when cynicism characterized the public's view of our government. He upheld the integrity of this institution. He was himself a person of character.

Despite the important role that he played in the glamorous hearings, Congressman Rodino's real legacy is in the work that he did to further civil rights for all Americans. As the son of an Italian immigrant who grew up on the ethnically diverse streets of Newark, Congressman Rodino understood the importance of building bridges to unite ethnic communities.

He was determined to see women and Americans of all races and religions receive equal civil rights. In his role on the House Committee on the Judiciary, Congressman Rodino was instrumental in managing the Civil Rights Act of 1964 on the House floor, where it passed and was eventually signed into law by President Lyndon Johnson.

Congressman Rodino authored the Fair Employment Practices Amendment within the historic civil rights bill. He strived to advance the rights of women, immigrants, and disenfranchised ethnicities. He never forgot his own roots.

In 1971, Congressman Rodino passed legislation making Columbus Day a national holiday, providing millions of Italian Americans with a day to celebrate our proud heritage.

To establish an Italian American presence in Washington, Congressman Rodino worked to found the National Italian American Foundation, NIAF, and the Italian American Congressional Delegation. It is my honor to

now cochair this delegation with the gentleman from Florida (Mr. MICA).

As an Italian American who also grew up in an ethnically diverse New Jersey city, I have admired Congressman Rodino's record as one who united people he represented. His career as a bridge builder has inspired a model on which I have based my actions as a representative of an ethnically diverse constituency.

This is the second time in 3 years, Mr. Speaker, that I have stood before the House of Representatives to express my condolences for the passing of a civil rights leader. In 2003, the Eighth Congressional District was unfortunate to lose the legendary Larry Doby.

I am honored to have represented these men who have molded the social milieu that America enjoys today. It is my hope that the passing of Congressman Peter Rodino will remind us of the legacy that he left behind and inspire us to apply his legacy to the legislation that we craft in this Chamber.

Mr. Speaker, next Monday we will have a mass and burial. Our condolences go to his family. He was a great, great American.

SECURING AMERICA'S BORDERS AND COMBATING ILLEGAL IMMIGRATION

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

Ms. FOXX. Mr. Speaker, I rise today to encourage my colleagues in this Congress to continue fighting illegal immigration in our great country.

My Republican colleagues were joined by 42 sensible Democrats to make great strides towards securing our borders by enacting the recommendations of the 9/11 Commission with the passage of the REAL ID Act. As a freshman Member of this House, I am honored to have played a role in that process.

However, Mr. Speaker, more still can and must be done to secure our borders and combat illegal immigration. The terrorist attacks on our homeland highlighted the potentially disastrous effects of porous borders and the need to bolster border security.

The problem of illegal immigration also has additional far-reaching, dangerous effects. Ultimately, it punishes all who follow the laws and processes of the United States.

Immigration affects virtually every aspect of life in America. I am happy to have supported the amendments of both the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Georgia (Mr. NORWOOD) to H.R. 1279 that just passed here today.

□ 1800

The Goodlatte amendment adds 5 years to any sentence for violent crime for drug trafficking when the offender is an illegal alien and adds 15 years to a sentence if the alien has previously been deported for a criminal offense and subsequently committed a crime of violence or drug trafficking. The amendment also requires the Homeland Security Department to give the National Crime Information Center the names of all individuals subject to deportation orders or who have signed voluntary deportation papers.

The Norwood amendment requires the Justice and Homeland Security Departments to conduct a joint study and to report to Congress within 1 year on the connection between illegal aliens and gang membership.

I was torn on voting for H.R. 1279 because of my concern for States' rights, but I was swayed in the end to vote for it because of the number of illegal aliens involved in gangs. With more than a million legal and illegal immigrants settling in the United States each year, a level higher than at any other time in our Nation's history, immigration has an impact on education, health care, Social Security, taxes, employment, the environment, crime and countless other areas of American life.

I sympathize with those who desperately wish to live the American dream here on American soil. I understand their desire for liberty, free markets and guaranteed rights. The demand for access to America is a resounding testament to the greatness of our Nation. However, immigration laws exist to provide the necessary steps for safe and legal entry into this country. We have an immigration process in place that simply must be followed.

Illegal immigration must be stopped, but we cannot and should not close our doors to those who wish to enter the country legally. We must increase our efforts at achieving closed borders with open guarded doors.

SMART SECURITY AND IRAQ PRISONER ABUSE

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

Ms. WOOLSEY. Mr. Speaker, last week, the trial of low-level military officers involved in the Abu Ghraib prison scandal in Iraq reached a climactic turning point. Colonel James Pohl, the military judge trying PFC Private First Class Lyndie England declared a mistrial in the case. Now this case will have to be tried again from the very beginning.

England's case was thrown out after Private Charles Graner claimed that the photos of abuse at Abu Ghraib Prison were taken for training purposes. This claim contradicts England's guilty plea in which she accepted responsibility for her actions and admitted that she had acted outside the scope of military orders.

There is no shortage of evidence that England is guilty of having participated in the abuse of Iraqi prisoners which included subjecting the prisoners to forced nudity, savage beatings, electric shock and harassment by dogs. Some prisoners, as a matter of fact, died as a result of the abuse. Nor is there a question that the abuse of prisoners violates our American ethical and moral code. Red, the color of blood, is the color that resulted from the beating in Abu Ghraib Prison last year. But now yellow is the color of the high-ranking military and administration officials who are cowering behind junior soldiers, hoping to duck responsibility for setting up a culture supporting the use of torture in American-run prisons in Iraq.

The question is, who is responsible for the abuses at Abu Ghraib Prison? Charles Graner's testimony suggests that the prison abuse scandal extends much higher than we have previously been told. Yet, only low-ranking soldiers have been held accountable for these abuses. Why have prosecutors investigated from the bottom-up instead of going straight to the source to find out who condoned these abuses? Why is there such a denial of culpability at the highest levels of the government?

Mr. Speaker, we must get to the bottom of this scandal because not only were the events at Abu Ghraib brutally inhuman and contrary to the democratic ideals of our open government, they also have endangered the American people. At a time when the United States is courting the support of the Arab world, the last thing we need to do is engage in the same atrocious violence as the thugs and terrorists that we are opposing. The images of American soldiers violating Iraqi prisoners is no doubt a rallying call for all those who want an excuse to hate and attack the United States.

Fortunately, there is a better way than this. I have developed a SMART Security Platform for the 21st Century. SMART is a Sensible, Multilateral American Response to Terrorism, and it will help reinvigorate America's foreign policy by focusing on conflict prevention, on international diplomacy and on multilateralism. SMART security recognizes security threats and addresses them, but instead of conducting our policies behind closed doors and through the barrels of a gun, SMART pursues open diplomacy and regional security arrangements to achieve our democratic goals.

Indiscriminate violence will not address the threats we face, because most of the post-September 11 security threats require a softer touch. That is why SMART security calls for dramatic increases in development aid and debt relief for the world's poorest countries to reduce the destitute conditions that give rise to terrorism. And they will simultaneously increase educational opportunities for the world's poorest people. These programs will also help counter the image problem that America has cultivated around the world and particularly in the Middle East.

Instead of encouraging militaristic policies that give rise to events such as

those at Abu Ghraib, SMART security encourages security through diplomacy. Perhaps, if the Bush administration had not been so keen on going into a misguided and illegal war, we could have utilized international diplomacy to encourage democracy in Iraq, instead of fighting a war that has thus far cost the lives of more than 1,600 American soldiers, at least 24,000 Iraqi civilians, and of course, there are also more than 12,000 American soldiers who have been gravely wounded as a result of war.

Let us utilize the SMART approach to address the threats we face. I encourage all of my colleagues to support this important legislation which I am reintroducing next week.

HONORING THE SERVICE OF LIEUTENANT COLONEL FAYE KNODLE

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

Mr. GINGREY. Mr. Speaker, with the 60th anniversary of World War II on all our minds, I thought it important to pay tribute to the proud veterans of the 11th District of Georgia and, indeed, America for the heroism that they displayed that has made possible the unprecedented freedom that we enjoy today. They deserve our gratitude and our full support.

One such veteran from Marietta, Georgia, is Lieutenant Colonel Faye Knodle. Colonel Knodle was drafted into the Army on December 2, 1942. He attended boot camp at Camp Beale, California, and in December 1943, he was moved to Camp Bowie, Texas, for combat training in preparation for combat duty in Europe.

Like the proud stories of so many brave Americans, Colonel Knodle hit Omaha Beach on June 10, 1944, D-Day plus 4, as a platoon sergeant in Patton's Third Army. Two days later, for his exemplary service, he received a battlefield commission from General Patton himself, raising him to the officer ranks. Knodle fought his way through France and Germany into the Ruhr Pocket.

He was later transferred to the 20th Armored Division and was assigned a section to free prisoners at Dachau. There he rejoined the Third Army and was part of the drive to Bavaria and the takeover of Hitler's hometown of Branau, Austria, on May 2, 1945. He became Commandant of Branau until July of 1945 when he received orders to return to the States in preparation for the invasion of Yokohama, Japan. He landed in the United States for a 30-day leave before reporting to Camp Cook, California, but before the end of that leave, the Japanese surrender was announced.

After serving in the Reserve component for 6 years, he was again called to active duty in November of 1951 and then served in various training roles in the 129th Division until he was discharged from service in 1965 as a Lieutenant Colonel, thus ending a distinguished 23-year military career.

Mr. Speaker, Colonel Knodle's story is just one of thousands that this brave generation shares. When they were young men, our Nation sent these brave soldiers off to foreign lands to battle the forces of evil, and they came back heroes, setting our Nation on a true course for greatness.

We have often heard them called the Greatest Generation, and I cannot think of a more fitting title for these brave men. By sharing their stories and remembering their sacrifices, we celebrate the freedom our country enjoys. As Ronald Reagan noted on the 40th anniversary of D-Day, ''We will always remember, we will always be proud, we will always be prepared, so we may always be free.''

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.)

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

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

There was no objection.

THE IRAQ WAR IS COSTING US OUR FUTURE

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, this week, the Senate finally passed the latest of the Iraq war supplemental funding. The $82 billion package brings the war's total cost to date, both in Iraq and Afghanistan, to $300 billion. This month will be the 2-year anniversary of the President's speech on the U.S.S. *Lincoln* announcing, ''mission accomplished.''

So what has ''mission accomplished'' and $300 billion got us so far? We have defeated Saddam Hussein's regime, yet we find ourselves marred in an endless occupation. This past January, we witnessed a successful election in Iraq, yet progress on developing a functioning government has been slow at best. Terrorism and insurgency are as strong as ever and continue to be escalating at certain times. Today, we saw that in a very serious way with more than 79 Iraqis killed in a terrorist act. Over the weekend, we lost again a number of our fellow citizens, bringing the total of U.S. soldiers killed to nearly 1,600 and 12,000 wounded. The economy in Iraq is stalled. The civil society cannot form a consensus, and millions of Iraqis remain without the basic services and functions of a civil society and government.

Our brave men and women are fulfilling their obligation and their duty to the United States Armed Forces and continue to fight valiantly, but the battle has taken its toll. As I said, nearly 1,600 fellow citizens have been killed. These are brothers and sisters, sons and daughters, mothers and fathers, aunts and uncles and Little League coaches and members of churches and other parts of their community who will no longer be with us. And more than 12,000 soldiers have been wounded. The strain is so great that recruiters for the Armed Forces cannot meet their enlistment goals. Last month, the Army alone missed its recruitment goal by 42 percent. The Pentagon now says they are stretched so thin, it would be difficult for the Armed Forces to meet other obligations should they need to do so.

Mr. Speaker, Operation Iraqi Freedom was a war of choice, and as President Kennedy once said, to govern is to choose. One can only hope that this choice is the right choice. In fact, while we have been fighting in Iraq, North Korea multiple times over the last 2 years has crossed red lines that have existed through Democratic and Republican administrations and has flaunted those goals. While we have been tied down in Iraq, North Korea's situation has gotten far worse.

Mr. Speaker, every other President in the history of the United States, when this Nation has gone to war, has thought about America after the war: how to build an America on the shoulders of that military victory so that victory overseas is also a victory here at home; how to build a stronger America for tomorrow.

Abraham Lincoln during the Civil War not only envisioned reconstruction but he envisioned a transcontinental railroad, envisioned land-grant colleges. President Roosevelt lead the Nation through the Great Depression in World War II, and he then in the closing days thought of a GI Bill and, 11 months before the close of the war, signed a GI Bill into law, allowing millions to buy a home and receive a college education. President Eisenhower, in the days of the Korean War, envisioned an interstate highway system. President Kennedy, during the struggles of the Cold War and Vietnam, envisioned a man on the moon and saw that America could envision something greater. Every President in every Congress throughout our history during the days of a war has thought about how to bring that victory home and mean a victory for the American people, not just a military victory.

So what do we have in these days of the war in Iraq and Afghanistan? President Eisenhower envisioned an interstate highway system; we have a President who is talking about vetoing our highway bill.

□ 1815

President Roosevelt thought of a GI bill, thought how to build America after the war. This President has eliminated and canceled vocational training programs and cut Pell grants, as well as President Johnson, during the days of the Vietnam signed into law the Medicaid legislation. This President's budget cuts $10 billion from Medicaid. All this because we are sagged down having added in the last 4½ years a little over $2 trillion to the Nation's debt. Our dreams for America are limited now, and literally weighed down by a Nation, by a debt that has been accumulated over the years that we cannot see an America with not only an interstate highway system, but we should have a broadband system for all of America to move it electronically forward into the future. It is the debt that is weighing us down and this, unlike in past military victories, this country has not seen the victory overseas to bring it home and make sure that all of America is also victorious.

FUELS SECURITY ACT

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

Mr. OSBORNE. Mr. Speaker, I did not come here to speak about Iraq. I have been there three times and the last time was 3 weeks ago. And each time I have been very impressed by the morale and the attitude of our soldiers, and they consistently have asked me to do this. They said, you know, we see two wars. We see the one that is being fought on CNN, and that is true. That is a reality, the bombings. But we also see the war that we are fighting. Would you please occasionally go home and tell people about the good things that are happening in education and health care, economy and so on. And so it is a tough deal. It is tough. And yet there are some good things that are happening.

The reason I came over here tonight to speak was about the Fuels Security Act, which has been introduced by the gentlewoman from South Dakota (Ms. HERSETH), the gentleman from Iowa (Mr. KING), and the gentleman from Minnesota (Mr. PETERSON).

As almost everyone in our country is aware, we have really suffered from high fuel prices over the last several months. And this has probably been the greatest drag we could possibly have on our economy at the present time. We are now nearly 60 percent dependent on foreign oil. And OPEC can influence the price of fuel here dramatically by either loosening or tightening their fuel supply. We recently saw that with our negotiations with Saudi Arabia. And so this is a very uncomfortable position for this country to be in.

An alternative to foreign oil is ethanol and biodiesel. Currently, 10 percent ethanol blends are roughly 10 to 15 cents a gallon cheaper at the pump than regular gasoline. We find that E 85, which is 85 percent ethanol, is 60 to 70 cents a gallon cheaper. So in my State, Nebraska, E 85 has been selling for about $1.60 a gallon, where other fuels have been $2.20 and $2.30.

Currently, 20 States produce ethanol, and that would include California and Kentucky, States that at one time we assumed would never be in the ethanol business. And as many people know, ethanol can be produced from biomass, even certain types of garbage. And I think eventually all 50 States probably will have some type of ethanol production of one kind or another.

In 2004 we produced 3.6 billion gallons of ethanol. This year, 2005, we will hit roughly 4.5 billion gallons. And the reason I am here tonight is that I want to make clear that people understand that the renewable fuel standard in the energy bill passed by the House and now sent over to the other body mandates that we go to 5 billion gallons of ethanol production by the year 2012. Well, we are going to be over 5 billion gallons next year, in 2006. And that is why we have introduced the Fuels Security Act. The Fuels Security Act proposes that we raise the ethanol allotment from 5 billion gallons to 8 billion gallons by 2012.

Increasing ethanol production will have several positive consequences and effects on the economy. Number one, it will lower the price of gasoline. Currently, the ethanol industry that we have in place today lowers the average price of a gallon of gasoline by 29 cents. So if somebody has been paying $2.20 at the pump, they would be paying about $2.50 if we took ethanol out of the picture.

Ethanol production raises the price of a bushel of corn by about 30 to 40 cents a bushel. As corn prices increase, farm payments decline. It is a countercylical effect. And so ethanol reduces the cost of the farm bill by an estimated $5.9 billion over 10 years, which will certainly be a benefit to the taxpayer. It will add $51 billion to farm income over 10 years. It will reduce the trade deficit by $64 billion between 2005 and 2012. And everyone knows that we are suffering from a very disadvantageous trade deficit at the present time.

We will add 243,000 jobs to our economy and reduce greenhouse gases by 7 million tons a year. So we think that biodiesel and ethanol is a very viable alternative. It reduces our dependence on foreign oil. And we would hope that the other body would consider including the Fuels Security Act in conference when and if they get the energy bill passed.

ABUSES OF POWER LOBBYING REFORM

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

Mr. PALLONE. Mr. Speaker, absolute power corrupts, and over the last decade, the cozy relationships that have been created between House Republicans and powerful corporate lobbyists have led to lobbyists controlling what happens here on the House floor.

Earlier this year, the Republican majority rammed through weaker ethics rules to protect one of their leaders who has come under scrutiny because of his relationship with a lobbyist. Fortunately, the American people were not fooled by this stunt. They saw the new rules for what they were, nothing more than an attempt to protect a powerful Republican leader. Finally, after media and public outcry became too much for the Republican majority to endure, Republicans agreed to reinstate the old bipartisan ethics rules.

However, Mr. Speaker, it is important to remember that had the public been indifferent and had the Democrats on the Ethics Committee gone ahead and allowed the committee to organize under the weakened rules, today this House would be structured under ethics rules that would allow either side, Democrat or Republican, to shield its Members from scrutiny. Mr. Speaker, the Republican ethics reversal was good for this institution and good for the American public.

I wanted to say, though, Mr. Speaker, that lobbyists still have too much power within the Republican majority here on Capitol Hill. House Republicans turned to lobbyists from the pharmaceutical industry to write a prescription drug law that does nothing to help senior citizens with the skyrocketing prices of their prescriptions drugs. Republicans turned to lobbyists from the oil and gas industry to write an energy bill that does nothing to address the rising costs Americans pay at the pump. With each of these bills rewarding lobbyists with billions of dollars in tax breaks and government handouts, Republicans did absolutely nothing to help out middle-class Americans who continue to struggle to make ends meet.

I think it is time Congress rein in the power of Washington lobbyists. Last week the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) introduced legislation that would dramatically reform the way lobbyists do business in this town. The reform legislation would force lobbyists to publicly disclose who they meet, whether it is a Member of Congress or an administration official, and what issue they are lobbying about. If the news reports of the last 4 months have shown anything, it is that lobbyists work below the radar screen here in Washington, and it is time for that to change and this reform legislation to get a good start.

The gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) want to bring a Republican on board to make their reform legislation bipartisan, but so far

they have no takers. In fact, when the gentleman from Texas (Mr. DELAY), the majority leader, was asked about the reform legislation last week, his first response was to simply laugh. And then the gentleman from Texas (Mr. DELAY) responded, and I am quoting, ''I am not interested in the water that they are carrying for some of these leftist groups.''

Now, I would maintain that lobbying reform should not be a partisan issue. The majority leader should not stand in the way of any Republican who decides to sign on to the Meehan-Emanuel bill.

And could it be that the Republican leadership has become so cozy with Washington lobbyists that they do not want to see any lobbyist reform?

Mr. Speaker, 10 years ago the gentleman from Texas (Mr. DELAY) said right here on the House floor, and I am quoting, ''The time has come that the American people know exactly what their representatives are doing here in Washington . . . are they feeding at the public trough, taking lobbyist paid vacations, getting wined and dined by special interests? Or are they working hard to represent their constituents? The people, the American people have a right to know.''

Now, that is what the gentleman from Texas (Mr. DELAY) said, as I said, 10 years ago. But, Mr. Speaker, what has happened to the majority leader over the last 10 years that makes him sing a different tune today?

I think it is time this House support real lobbying reform, and it is time House Republicans seriously look at the ideas that the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) have put forward in their legislation.

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

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

EXCHANGE OF SPECIAL ORDER TIME

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Indiana (Mr. BURTON) at this time.

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

There was no objection.

SCIENTIFIC MODEL FOR DECISION-MAKING

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

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the opportunity to address the House this evening and talk about an issue that is not Republican; it is not Democrat. It is an issue that may potentially affect every single citizen in our Nation.

When I ran for office as a physician, many folks in my district and in my family and in my practice asked me why? What on Earth do you want do that for? Why would a physician run for office?

Well, in addition to the feelings that most of us had, I suspect, about making a real difference, one of the things that attracted me to being a public servant, running for office, was the opportunity to bring the scientific model to decision-making in the world of public policy. As a physician, I was trained in the scientific model.

And what is that? That means that when you have a problem before you, like a patient who has a disease that you do not know about, that you work as hard as you can to identify that problem, and then you gain as much information about that problem as possible. And then you define specific solutions for the problem, and then you enact one of those solutions. You enact one of those treatment plans, if you will, and you measure the result, see where you are; and if you are not where you need to be, then you change what you are doing and move on so that you make modifications that are necessary so that you work toward that end goal.

Now, this is a classic model for doing all that is necessary and not more. It also allows for the greatest amount of critical thinking about any issue, not just scientific issues, but any issue; and if it is followed, it will result in the best outcome.

Now, the opportunity to bring this type of decision-making, what I call solution-making, to Congress is truly a great privilege. For if we do not address problems in this manner, then we are left with political battles where the argument that carries the day goes to the group with the most and greatest number of troops on their side, or with the side that has the most passion or the most emotion in their argument.

Now, there is nothing wrong with numbers, and there is nothing wrong with passion, and there is nothing wrong with emotion. It is just that they may not get you to the right solution.

And such is the case, I believe, with the issue of stem cell research. What is the problem? What is the problem that we are trying to address with stem cell research? Well, it is diseases. Patients have diseases and stem cells may be able to cure some of those diseases.

Stem cells are cells that when they are stimulated or encouraged, they may become other kinds of cells, many of which may be beneficial in the treatment of diseases.

And there are basically three types of stem cells. There are embryonic stem cells, those cells that come from an embryo, a human before it is born. There are cord or placental cells, those cells that are left over after the birth of a baby. And then there adult stem cells; and those cells, in spite of the fact that they are called adult, come from anybody that has been born.

Now, regardless of where you come down on this matter, which cells ought to be used, I think it can be said that no one can state that this issue is not full of ethical dilemmas. The beauty of this issue is that science, if you follow the science, we can avoid those ethical challenges. And the bonus is that they work.

If you take a peek at this poster here, what we have are adult stem cells. And there are all sorts of different adult stem cells. There are bone marrow and peripheral blood and hair and cells from your stomach or your GI tract or the placenta or the brain. All of those can result in a different kind of cell. You can get tendon from bone marrow. You can get nerves from peripheral blood cells. You can get heart cells from skeletal muscle cells. All of these kind of cells are available.

In addition to that, the adult stem cells that have been used and studied have actually shown great benefit in many different diseases, unlike embryonic cells to date. Adult stem cells have treated 43 different types of diseases from brain cancer to myasthenia gravis to stroke. So they work. A couple of examples, Parkinson's patient treated with his own adult stem cell continues to exhibit relief from 80 percent of his symptoms more than 6 years after his surgery. A phase 1 human clinical trial using this therapy is currently under way.

□ 1830

Umbilical cord cells were used to treat a South Korean woman who had been paralyzed, a spinal cord injury. She now is able to walk.

Dr. Denise Faustman, a leading diabetes researcher from Harvard has completely reversed end-stage juvenile diabetes in mice and has FDA approval to begin human clinical trials.

As we go through this discussion over the next number of weeks and months and years, frankly, I urge my colleagues to look anew, to look objectively at the issue of stem cell research. If we do, I believe that we can then all determine that we will work in a reasoned manner together to allow scientists and researchers to help the patients of our Nation.

A FREE AMERICAN

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, last night, the House passed House Resolution 193 as a suspension bill. For people who may not know, suspension bills are meant to be noncontroversial measures the House typically passes unanimously.

I voted no. Let me tell you why. Because it was a protest vote meant to encourage freedom and liberty for all Americans. Let us start with what it said.

H.R. 193 is a resolution that says in part, ''expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on 20 May 2005 in Havana. Whereas, Fidel Castro's terrorist regime has continued to repress all attempts by Cuban people to bring democratic change to Cuba and denies universally recognized liberties, including freedom of speech, association, movement and the press.''

I could go on but there is no need to. It is all right there in what I just read. We decry liberties denied Cubans while a Cuban-American in my city of Seattle is denied the right to go to Cuba to visit his son by the U.S. government.

Remember the grandstanding on Elian Gonzales? We wag our fingers at Fidel and shout about Cubans being denied liberty at every moment. Well, we are denying the right of an American to travel to Cuba for a few days to see his son. How hypocritical is that?

I am talking about the plight of Sergeant Carlos Lazo. He came to America from Cuba in the early 1990s floating on a raft in the ocean. He risked his life for a chance to come here. Talk about the quintessential story about risking everything to call America home. Carlos Lazo is the stuff of books and movies and news coverage. He wants none of it. He just wants to see his children in Cuba. And the United States government will not let him go.

Floating on the raft in the ocean, that is what Carlos Lazo did. That is about as courageous as it gets. So he arrives in America. He moves to the State of Washington. A man grateful to be alive, he determines to embrace his new country and do everything within his power to give back. He joins the Washington National Guard. Over a year ago, his unit dispatched to Iraq. Now Carlos serves his country in one of the most dangerous places in Iraq, Fallujah, as a medic. He serves on the ground in Iraq for a year.

When his duty is over, Carlos wants to go see his kids still in Cuba. Carlos goes to Miami, but he is denied the right to travel to Cuba. He is denied the right to board an airplane bound for Havana. He saw them in 2003, and he is told by the government: You cannot see them again until 2006. Three years.

Sergeant Lazo, who proudly served America, who risked his life to get here and risked his life to defend liberty, is now a man whose liberty has been denied. He cannot see his children in Cuba until the President lets him go.

When will Carlos be able to visit his children in Cuba? I ask that the Speaker, because the administration is in denial, call the White House. They want to perpetuate a bureaucracy and a failed policy, not assist an American who wants the sum total of what every parent wants, the right to see their kids.

The government has in place a policy which denies the basic liberties of an American hero, and we have not lifted one finger in this House to help Carlos Lazo. The Secretary of Defense is not interested in him. The White House is not interested in its citizen. The White House and this House are only interested in wagging fingers at Fidel Castro.

Carlos Lazo is a man who embodies everything Americans stand for, courage, determination, quiet thanks from a man grateful to have made a new life and a new home. And now Carlos is a man who cannot be united with his family. Carlos is a man who did not want to be anything but a quiet, grateful American and is forced to become a man in the spotlight, hoping someone will pay attention, hoping someone will let him see his kids.

H. Res. 193 is a suspension bill that would have us suspend disbelief. Carlos deserves the thanks of a grateful Nation and the immediate assistance of this administration and the Congress. We ought to add his name to H. Res. 193 so he can travel. We should do that and make a resolve that the United States of America, which sees itself as a beacon of liberty in the world, extend its support to Carlos Lazo and will facilitate his immediate travel to Cuba to be reunited with his kids.

Anything less than fighting and defending the liberty of Carlos Lazo from the State of Washington is the work of a Congress long on hyperbole and short on action in defense of liberty.

Mr. Speaker, call the Secretary of Defense before the day is out. I bet he is still in his office. Send Carlos Lazo to Cuba, to his sons in his former homeland, so he can be a free American.

If you want to make a real statement about what it means to be free, let one American be free, free to travel, free to be reunited with his children, free to show the people of Cuba, firsthand, what freedom means in this country.

Free to show Cubans firsthand that America does not have to prevent its citizens from leaving the country in order to keep them.

Mr. Speaker, use your office to intercede and let this House stand as a beacon of freedom and liberty for every American, not just some Americans.

So long as Carlos Lazo is forbidden from visiting his children in Cuba, America can only be known as the land where some are truly free and others are truly denied liberty.

Send Carlos Lazo to Cuba.

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

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

SUPPORTING LT. PANTANO

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

Mr. JONES of North Carolina. Mr. Speaker, I have spoken at great lengths now about Second Lieutenant Ilario Pantano, a Marine who served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and this country.

Lt. Pantano's article 32 hearing ended 2 weeks ago, and now the investigating officer in the case, Major Mark Winn, is set to make his recommendation on the case to the Second Marine Division Commander, General Richard Huck, by Friday.

I stand here today to represent the thousands of people who have joined in my hope and prayers that, on Friday, Major Winn will recommend that all charges be dropped against Lt. Pantano.

Based on the facts of the case, the man who brought forth the allegations, Sergeant Coburn, is someone who did not see the shooting and who waited 2½ months to report the incident. I am convinced that this lieutenant should and will be exonerated of all charges.

I know that, during the hearing, both his Marine and civilian attorneys did an excellent job of proving the innocence of Lt. Pantano, and I have the utmost confidence in the system that the truth will prevail.

Mr. Speaker, I wholeheartedly believe that Lt. Pantano was doing his job when he found himself in an unfortunate situation where he needed to defend himself and his platoon members against the enemy.

Having met and interacted with Lt. Pantano and his family over the past few months, I have had the opportunity to get to know them well. I am certain that the man I have come to know is not a murderer. He is a dedicated Marine who loves his Corps, his country and his family.

Mr. Speaker, I put in a resolution, House Resolution 167, to support Lt. Pantano as he faces trial. I continue to urge my colleagues in the House to take some time to read my resolution and look into this situation for themselves.

Lt. Pantano's mother also has a website that I encourage people to visit. The address is www.defendthedefenders.org. I would like to repeat that, www.defendthedefenders.org.

Mr. Speaker, I close once again by asking that we do not send the wrong message to our men and women in uniform and cause them to second guess their decisions. I fear that instilling doubt into the minds of our Nation's defenders places their lives and the security of our Nation in jeopardy.

Mr. Speaker, I close by asking God to please bless Lt. Pantano and his family, and hopefully, on Friday, this decision will be to exonerate this wonderful lieutenant who loves his country. I also ask God to please bless our men and women in uniform and their families. I close by asking God to please bless America.

NATIONAL COVER THE UNINSURED WEEK

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

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to call attention to the fact that last week was the third annual National Cover the Uninsured Week.

The purpose of National Cover the Uninsured Week is to raise awareness of the problem of the uninsured and the need for reliable and affordable health care coverage. To this end, I shall briefly discuss the problem that we face as a Nation and call attention to some proposed movement towards solutions.

The challenge that we face as a Nation is grave. According to the U.S. Census Bureau, 45 million Americans lack health coverage, a figure which includes 8 million children. In my home State of Illinois, 1,800,000 individuals lacked health coverage in 2003. This problem is not merely one of numbers, statistics, charts and figures. It impacts real live people in every State in the Nation.

Families forced to pay high medical bills out of pocket are the same families that default on loans, are unable to save for their children's education and are forced into bankruptcy. Children who lack coverage are children who are unable to get necessary preventative care or treatment. Additionally, the problem is the enormous burden on health care providers who sometimes must charge those who are covered more in order to care for those lacking coverage, as they are mandated to do in emergency situations. This situation only fuels the ever-increasing cost of health care in this country.

Sadly, I know all too well that I have not just shed light on a previously unknown problem. My colleagues in the House have surely heard this many times before. However, all of our talk has yet to provide solutions.

Fortunately, three bills have been introduced that will help to alleviate this grave and well-documented problem: the Medicare Early Access Act, the Family Care Act and the Small Business Health Insurance Promotion Act.

Together, these bills will help to expand access to Medicare to younger workers, provide incentive to States to extend the State Children's Health Insurance Program, CHIP, to working parents and eligible children, and make it easier for small businesses to cover their employees. It is quite possible that enactment of these proposals would extend coverage to 20 million more Americans.

While this is less than half of the total number of America's uninsured population, it is certainly a step in the right direction. After all, even a journey of 1,000 miles must begin with a single step. But the real deal is, Mr. Speaker, we need a national health plan, single payer, with everybody in, nobody out. Health care is indeed a right and not a privilege. Every American should have it.

HONORING JAMES McCLAMMY

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

Mr. POE. Mr. Speaker, I rise today to salute an almost 80-year-old veteran from my southeast Texas district. A dedicated American, a charter member of the greatest generation, Private James McClammy this weekend finally received the honors due him after 60 years.

A bit of history is in order, Mr. Speaker. Private McClammy was born in Canton, Mississippi, in the mid-1920s. James McClammy grew up during the Great Depression. Times were tight, tough and hard.

Mr. Speaker, he was a depression baby, as he calls himself. His family moved to Poke County, Texas, just outside of Livingston. That is in the Piney Woods of deep east Texas. He was the son of a State highway worker. And although he lived in a peaceful country atmosphere, the world would soon be at war again.

This teenager would be like thousands of other Americans; he, too, would go off to war. With the outbreak of World War II, Mr. McClammy was drafted right out of high school. A strapping 18-year-old, he has answered that call with abiding courage. He began his basic training in the Lone Star State at Fort Sam in San Antonio and then in Camp Walters, Texas.

It is interesting to note, Mr. Speaker, that my dad about the same time was going through basic training at Camp Walters, Texas, and he, too, served in the great World War II in Europe.

At any event, Private McClammy later was sent to Fort Benning, Georgia, for jump school to complete airborne training. Following the D-Day landings, Private McClammy was assigned to the 501st Parachute Infantry Regiment, 101st Airborne Division's Easy Company and was deployed to Holland.

Having been a member of the famous Screaming Eagles for less than 4 months, this young private was about to experience a day he would never forget. It was Sunday the 17th, Mr. Speaker, a perfect Sunday in September of 1944. Private McClammy was one of more than 30,000 Americans and allied paratroopers involved in Operation Market Garden. They were charged with the important yet extremely perilous mission of descending into German-occupied Holland. Their objective was to secure the bridges across this occupied country's rivers so the allied forces could avoid the German defense line, the Siegfried line.

□ 1845

One of these bridges was referred to in the military history as a Bridge Too Far. The 101st traveled swiftly northwards and into the lowlands of Germany. If their valiant jump attempts were successful, many believed the war could be over by Christmas, but this was not to be.

Private McClammy recalls the morning of the daylight jumps. He says, ''My memory is not as good as it used to be, but it was a beautiful day and there was no enemy fire. Our goal was to capture and hold a bridge, a railroad bridge in Veghel, Holland, to prevent the German Army from seizing and destroying it. While the Germans were initially caught off guard by the airborne landings, they were by no stretch of the imagination defeated.''

The jump into Holland was unlike any of Private McClammy's other jumps because there was no swinging around after his chute opened. Because they were so close, they jumped and almost immediately hit the ground. During the mission, Private McClammy's personal duties were clear: move forward, capture the bridge.

The Screaming Eagles 501st Regiment was led by Colonel Howard Johnson. With all of but one of his battalions descending as planned into the drop zone near Veghel, Colonel Johnson's men, including Private McClammy, marched steadfastly into the city where they successfully completed their mission and held and followed their orders: hold until relieved.

He says, ''We held the bridge and then got relieved by another unit. It wasn't until later in the day that the enemy fire started.'' While he completed that day's work unscathed, the next week he was not as fortunate. On September 23, the Germans started shelling and they continued to shell.

Amidst an artillery barrage, a nearby shell explosion sent shrapnel flying into Private McClammy's hip. He was the sole survivor because three of his teenage friends, other members of the 101st, were killed in that attack. He was trapped for several days, and finally evacuated to a field hospital in Belgium where they operated on him.

He was then flown to a facility in England where he spent the remainder of September until early December recovering from his wound. At that point, he traveled on a crowded ship back to the United States where he boarded a train from South Carolina to Texas that stopped at various cities in the southern United States to drop off wounded veterans.

Private McClammy was discharged after the war and, like many of his band of brothers, never learned he had earned the Bronze Star for his action in World War II. It was only recently that a friend and fellow soldier from the Easy Company, Willie Ray Fox, brought this to his attention.

Mr. McClammy tried for 2 years to get his medal without success. In March, he contacted my Jefferson County office, and he was awarded those medals last week.

Mr. Speaker, I want to thank the military and members of my office for

helping to find him those medals, and they were, Mr. Speaker, the World War II Victory Medal, the Combat Infantry Badge 1st Award, the Honorable Services Lapel Button, the World War II Parachutist Badge, the Purple Heart, and the Bronze Star.

We thank Private McClammy for his service. We thank him for being a good American. We thank him for his service.

As Shakespeare wrote many years ago about the band of brothers: ''From this day to the ending of the world, but we in it shall be remembered—We few, we happy few, we band of brothers.''

The SPEAKER pro tempore (Mr. KUHL of New York). 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 gentleman from Indiana (Mr. TIAHRT) is recognized for 5 minutes.

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

UNITED NATIONS REFORM

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

Mr. GARRETT of New Jersey. Mr. Speaker, as we approach the 60th anniversary of the United Nations, it is appropriate that we look at its original mission and evaluate whether the United Nations has accomplished what it was set out to do.

The U.N. charter states in part that its purpose is to maintain international peace and security; to develop friendly relations among Nations; to achieve cooperation; and to promote and encourage respect for human rights. But, unfortunately, if we look at the U.N.'s record on these issues, we see that they have failed on every account.

Firstly, the U.N. has not maintained international peace and security. In fact, since 1945 there have been over 300 wars and over 22 million people have died in those wars. The only two times that the U.N. has ever supported intervening to stop hostilities was the Korean War, when the Soviet Union had boycotted the Security Council meeting, and the first Persian Gulf War.

In fact, the biggest threat to the civilized world today is terrorism, and the U.N. has failed throughout its existence to develop a clear definition of what terrorism is even.

Another main mission of the U.N. is to promote and encourage human rights and equal rights throughout the world. The U.N. Commission on Human Rights is the primary body to get that job done.

However, such countries as Cuba, Sudan and China, all of which have long histories of violating human rights, sit on that commission. In fact, several years ago, Libya, with its terrible human rights record, was selected to serve as chairman of that human rights commission.

In regards to the U.N. fulfilling its mission of solving international problems of an economic, social and cultural character, recent reports by the Heritage Foundation, the Freedom House, and The Wall Street Journal all indicated that a majority of the nations that are in the U.N. are neither politically nor economically free nations.

These general problems with the unaccountability of the U.N. lead me to one of the biggest problems and biggest scandals in the history of the U.N. and that is the Oil-for-Food scandal.

Right after the first Gulf War, this was put in place. The Oil-for-Food program was created to help those people in that country get the food and supplies that they needed. However, Saddam Hussein used the money to advance his own weapons and military programs as the poor people continued to be plagued by starvation and disease.

By allowing the corrupt Saddam Hussein regime to manipulate the Oil-for-Food program and bribe officials from other countries around the world, more than $21 billion was stolen by Hussein at the very expense of the people that the program was designed to help, the Iraqi poor.

The U.N. has continuously denied access to the papers that would help us to get to the bottom of this. That is perhaps one of the most troubling problems with the Oil-for-Food program, the lack of cooperation by the U.N., lack of cooperation to help us all get to the bottom of what really went on. They have denied us access to papers, and they have also denied us access to the people who were involved and shielded them from responsibility.

The U.N. claims to be addressing these concerns by establishing the Volker Commission to investigate the allegations. However, it has been stated by a member that Volker has close ties to the U.N. and also to Secretary General Annan, as well as other conflicts. He has been accused of downplaying Kofi Annan's involvement in the scandal in his most recent interim report, and it was just 2 weeks ago that two of his top investigators on that very commission resigned because they felt that the report was too soft on Annan.

Volker is continuing to block congressional investigations by demanding that those committees return relevant documents and not allowing the investigators that resigned to testify before Congress.

I think that this behavior by the U.N. and its investigating committee is totally indefensible and cannot be tolerated. Kofi Annan's complete lack of humility, contrition, and acknowledgement of any wrongdoing should be disappointing to the entire world; and it is for that reason that I support suspending all U.S. funding to the U.N. until they agree to cooperate fully with the ongoing investigations into the Oil-for-Food scandal.

Another ongoing scandal at the U.N. that has not received as much press is the human rights violations in the Congo. U.N. peacekeepers in the Congo stand accused of committing 150 major human rights violations. They are accused of raping and forcing prostitution on hundreds of refugees, many of them children. These barbaric acts raise serious questions of the ability of U.N. oversight on their very own peacekeepers.

The United States has contributed over $750 million towards that Congo peacekeeping mission since 2000. So the U.S. taxpayers at home, I believe, should know where their money is going and should know that the U.N. is doing its job to make sure that the people over there are protected.

All these problems that I have mentioned just now lead back to the very point that I am trying to make here tonight, that there is a lack of oversight and accountability by an international body that claims to represent the moral conscience of the world, and this should not be tolerated. As the largest financial contributor to the United Nations in the world, the United States is the one country in the best position to demand these reforms.

Tomorrow, we are expecting an extremely important vote to take place on the other side of the Capitol. A vote ''yes'' there will be a vote for U.N. reform, but a vote ''no'' will be a vote against U.N. reform. I certainly hope that that other body will vote in favor of U.N. reform.

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

(Mr. KING of Iowa 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 Arizona (Mr. FRANKS) is recognized for 5 minutes.

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

SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Kentucky (Mrs. NORTHUP) is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mrs. NORTHUP. 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.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

Mrs. NORTHUP. Mr. Speaker, tonight we are eager to talk about Social Security and to talk about what it means to this country, to our seniors, to those that are about to be seniors and to our younger generations, our children, our grandchildren who will support the system throughout their work years and to talk about new opportunities that exist in Social Security to make sure that Social Security is sustainable and solvent for their lives, just like it is for those who are seniors today.

I think we should start the discussion by inviting seniors today who currently receive benefits to stay tuned. There are many people that talk about Social Security, that remind seniors that whatever changes occur they are changes for those who are in the current workforce and that it will not change for today's seniors. Sometimes that sounds a little bit like saying to today's seniors that they are not needed when, in fact, they are badly needed in this discussion.

It has always been our seniors that have appreciated Social Security specifically, but also had a broad interest to reflect on what it means to them and how important it is for their children and grandchildren. Over the years, they have been the caretakers of a system to make sure that Social Security lasted beyond their generation and into the future, both for their children and grandchildren, but also for the good of this country.

We need our seniors today just like we have always needed our seniors. We need them to pay attention to this debate, to participate in it, to bring us their good ideas, and to remind us that it is just as important to them that their children and grandchildren have a secure and solvent system of Social Security available to them.

So I thank our seniors for their concern. I thank them for the fact that they raise the issue at public meetings, in letters to the editor, in the mall. All of the places that we visit, they remind us that Social Security is important and that they are listening and that they care about the issue.

I invite them to listen to the ideas about the changes, changes in this country, changes in the demographics, changes in the challenges, and to bring to us their ideas of how we can better improve Social Security, make it stronger and more secure for their children and grandchildren.

It would be hard to start such a discussion without starting with the difference in the demographics in this country and why they present to us new and different challenges than when Social Security began back in 1935 or when it was last changed back in the early 1980s.

So let us start there. When Social Security began, there were 40 workers supporting every retiree. Forty workers are a lot of workers, and for a little bit, all of those workers could pool and support the retirees that were currently in the system.

Not so long ago when we last changed Social Security, there were 12 workers in the system that supported every retiree; and so, again, it was a program where current workers could fairly easily support the retiring community.

Today, there are only three workers in the system for every retiree, and that means that every worker has to give considerably more to the system in order to make sure that we meet the needs of our retirees; and for our children when they start to retire, there will only be two workers in the system for every retiree.

□ 1900

And so we are looking to improve the system, to strengthen the system, to make sure it is for our children, as they bear that responsibility, also an opportunity to strengthen the system itself and that it will be a system that they can then pass on to the generations behind them as a strong, solvent and sustainable program.

Mr. Speaker, my friend here, the gentleman from Minnesota (Mr. KLINE), is eager to talk about this issue and to share with me his perspective. I know he hears from his seniors. I know he hears from the young people in his district, and he understands the challenge that we face as the demographics change, and so I yield now to him.

Mr. KLINE. Mr. Speaker, I thank the gentlewoman from Kentucky (Mrs. NORTHUP) for yielding to me and I also thank her for her leadership on this issue.

I was just listening to her talk about the change in demographics, and I immediately sort of flashed back to a whole series of town hall meetings that I held in my district. I know many of my colleagues have done those, and one of the charts that I have put up in all of these town hall meetings is a graphic that shows very clearly the very issue that my friend from Kentucky was talking about. It is a chart that shows that, as late as 1950, there were 16 people working and paying social security taxes for each retiree. Sixteen for one, as late as 1950.

But, today, Mr. Speaker, as she so clearly pointed out, there are only three people working. And when my children, much less my four wonderful grandchildren, retire, there will be only two. That chart, when you put that on an easel and the folks attending the town hall meeting have a chance to look at that and absorb the impact, by the time I get to the point in the meeting where I ask all those attending how many of them think we need to do something, that we need to do something to strengthen Social Security, to fix Social Security, every hand goes up. I think it is inescapable.

It is interesting that, in my town hall meetings, most of them were designed to invite senior citizens to come into the meeting, and so the vast majority of the folks attending the meeting and engaging in the discussion were in fact seniors. Some of them had come at the urging of organizations like the AARP. But across the board, they look at the inescapable fact that we have fewer and fewer and fewer people working for each retiree, and also they realize the inescapable fact that we are just living longer.

If you look back to when Social Security started, under the urging of President Roosevelt, the average life expectancy was around 61. I know it changes if you are a man or if you are a woman and so forth, but the general life expectancy was about 61. By the way, retirement age was 65. A very interesting concept they had back then. But, today, the life expectancy is on the order of 77 years. And as we look at the retirement situation for my children and grandchildren, life expectancy is around 83 or 84 years. Clearly, we are living longer, we are having smaller families, and we are going to end up in the situation where the demographic changes in this country are going to put us in a position where there simply are not enough people working in order to provide the benefits for our retirees.

Now, in one moment, I will be happy to yield back to the gentlewoman, but it has been interesting to me as we have gone forward in the discussion in this debate how often some of us are accused of wanting to destroy Social Security or wreck Social Security or end Social Security or put something risky into the program that my mother, for example, my 84-year-old mother depends on, and that is Social Security. Now, I do not, I know the gentlewoman does not, and our colleagues do not want in any way to destroy Social Security and the very important benefits that so many of our seniors depend upon. So as we have gone forward in this discussion and certainly as we have looked at the many, many proposals, we track them in our office. And we are up to 13 identified proposals to do something about strengthening and saving Social Security. We look to make sure it is not going to do any harm and then underscore, as the gentlewoman said earlier, that all of us, I guess it is a sign of the times, all of us who were born before 1950 are not going to be affected.

The plans have been made. Folks are depending on the checks coming like this. And, frankly, we do not want to have anybody alarmed that there will be changes in the Social Security checks that they have come to expect. But in the long term, we are looking to strengthen the program, and we are just coming to grips with the demographics that she described that show we simply are not going to have enough people working and paying

taxes to provide for retirees if we do not do something to strengthen the system.

With that, I yield back to the gentlewoman.

Mrs. NORTHUP. I thank the gentleman for his comments, Mr. Speaker. And, you know, the gentleman from Minnesota brought up the changes in demographics and not only the fact that there are fewer workers for every retiree but also the fact that we are living longer, and I think we all have to really celebrate that.

It used to be that the average age of death was when you were 61; you could not retire until you were 65. So forward looking, you did not have the hope of so many years of retirement and opportunity to live and travel and live a life full of opportunities to see your grandchildren grow and graduate from high school. So the changes in demographics are really something to celebrate, to appreciate and to recognize that it is to the benefit of all of us. But we have to make sure that the Social Security System supports those changes.

I see that my friend, the gentleman from Texas (Mr. CONAWAY) is here to join us in the discussion, and I want to welcome him and thank him for joining us. I will bet he is hearing many of the same discussions in Texas these days, and I yield to him now, Mr. Speaker, to comment about that.

Mr. CONAWAY. Mr. Speaker, I appreciate the gentlewoman's yielding to me and allowing me to visit with our colleagues tonight on a very important topic of Social Security reform, and I am indeed hearing a good bit about this.

Mr. Speaker, I am a CPA, an accountant, and I address problem solving by first deciding whether or not there is a problem. My colleagues tonight have presented a very good case for the fact that we do have a problem. Now, you can call it a crisis. You can call it a problem, or you can call it challenges. I think we should not get hung up on the descriptor; let us just simply look at the math.

A lot of what we do in Congress is based on things that are not quite as verifiable as the math associated with this issue. And you do not have to be a rocket scientist to understand the math, to have gone through the number of employees working versus the number of recipients and how that ratio is closing to get to two to one and the fact that in the law today is built in a 27 percent cut in those benefits in the year 2041, 2042. It is at that point that the trust system, the trust fund will have exhausted, and there is a cut in benefits at that point in time. I have a son that will be retiring at about that point in time, and I am not interested in him having a 27 percent cut in his benefits.

The other thing that I think each of us has to tell all of the seniors, and I have a mom and dad out there who are dependent upon Social Security, that your benefits are fixed. They will continue to grow under the existing laws. And my colleagues who are in the 55-and-up bracket, the same rules apply to you. Your initial benefit, that primary insurance amount that is talked about, is in the law now, and when you turn 62 or 65, then that number will be set, as you are expecting it to be set today, and it will continue to grow over your lifetime so that your benefits are assured.

Every single plan that is being discussed does absolutely nothing, repeat nothing, to affect those promised benefits. So once you have assured the folks that have retired and are near-term retirees, those people who have the least amount of time to react to whatever changes are made, that they are not going to be affected, then they should be on the side of those of us who want to change it, who want to put security in the Social Security for our children and grandchildren.

My colleague from Minnesota mentioned his four grandchildren. You know, the first liar never stands a chance. I have six grandchildren that I am very proud of. And I believe that the lifetime benefit, the lifetime annuity that is Social Security, that this country has put in place for 75 years, that has stood us in good stead for 75 years, is important for my parents. It is going to be important for me, but more important to me as a grandfather, it ought to be in place for my grandchildren and my children. And we have the opportunity now to address that and to put the security back in Social Security for our grandkids.

Another fact that is reasonably undeniable is that, each year we delay in whatever the fix is, whatever the compromises we make, whatever the solutions are, each year we delay that, we do a couple of things: One, we add $600 billion to the unfunded liabilities that are accumulating on the balance sheet of this country. The other thing that we do is we begin to narrow the options that we have to fix Social Security. Not only do we narrow those options, but we make whatever the fix is more extreme in those options that are available to us.

So in my mind, we do not have to argue it is a crisis or whatever. In my mind, we ought to be about fixing Social Security today, so that when we begin to face what I think is a much heavier problem and heavier lift, which is Medicare and Medicaid, we will have Social Security behind us and set for the foreseeable future, infinite horizon, whatever you want to talk about, that we have in fact put this behind us and are now working on those two very daunting challenges.

Some of the opposition that I hear, and most of that opposition until recently has been what I refer to as our outside voices; we have not had too many conversations using inside voices. Remember the kindergarten days, when you would come in off the playground, and the teacher would say, Let's begin to use our inside voices. We listen to each other better when we are using voices than when we are screaming at each other at the top of our lungs.

Recently, I participated in a meeting with some representatives from AARP and a couple of my Democratic colleagues and some of my Republican colleagues, including the gentlewoman from Kentucky (Mrs. NORTHUP). We sat in a room for about an hour and a half using inside voices, looking each other in the eye, trying to understand what the other person's position was, trying to understand how they see the problem, how they see the solutions and at the same time trying to convey to our colleagues as well as to the leadership of AARP, our positions and why we think our solutions are the ones that ought to be a part of the ongoing situation.

As I understand it, that may have been one of the first opportunities for Members of both sides of the aisle to sit and look at each other in a quiet environment and to talk. I think the last 30 minutes of that meeting is probably one of the most productive we have had anywhere, because everybody had kind of gone through the initial party-line rhetoric and got that out of our system, and then we began to talk seriously about how we see Social Security and this need for change.

Let me give one illustration. I mentioned I have six grandchildren. I cannot find one grandparent who would gather their, my number is six, did I mention I have six, three boys and three girls, gather their grandchildren up and take them down to their local banker and say, Mr. Local Banker, I want to borrow a lot of money that I want to spend on myself, and I want you to draw up the loan papers so that my six grandkids will pay that loan off. I am talking the money, but they have to pay it off. I do not find many grandparents on an individual basis that would do that to their own grandchildren. But, somehow, we collectively, as a society, think that is okay, because that is what we are doing, that exact same thing. We are writing checks that we cannot cash, that we are going to require our children and grandchildren to pay off.

And Social Security is in that mix. And so we should be very serious about this process of reforming it. I am excited that, tomorrow, as I understand it, we will begin to have hearings in the Committee on Ways and Means to begin to look at specific things. Until this point in time, the effort has been to try to convince each other that we do in fact have a problem that needs addressing and needs addressing now.

We are coming to the end of that stage, and now is the stage we begin to look at the individual solutions, adopt the ones that ought to stick with us and cull the ones that should not. So we are in the process of gathering all those good ideas up to see which ones fit. My guess is, it will be a multifaceted fix. There is no one single

change or new policy that will fix Social Security. It is going to require a lot of pushing and shoving in a lot of different areas.

Two things, and then I will close and yield back. In my mind, personal savings accounts ought to be an integral part of whatever solutions we come up with. They are not a panacea. They do not in and of themselves fix this issue, but what they do address is a way to improve Social Security, to add an element of ownership to Social Security that we do not currently have.

If I work 40 years and die, there is a little bit of survivor benefits that go to my wife, but the bulk of what I have accumulated in terms of Social Security benefits forfeits back into the system. We can do a better system than that, and these personal savings accounts will add ownership-like issues to Social Security, which in my mind is an improvement to the overall system.

So I think that is important. And I have lost my second thought, so with that, I will yield back to my dear friend from Kentucky.

□ 1915

Mrs. NORTHUP. I am so impressed that the gentleman from Texas would tell us he has six grandchildren. My husband and I, after 36 years of marriage and six children, have one grandchild. I hope that I will catch you someday. They are the most blessed part of our lives and it is one of the things that makes us think long term as we consider public policy, what about our children, what about our grandchildren and hoping that their days are going to be as hopeful and filled with opportunity as our generations have been.

The gentleman from Georgia (Mr. GINGREY) has joined us. Welcome. Tell us what you are hearing in Georgia about Social Security.

Mr. GINGREY. I want to thank the gentlewoman from Kentucky (Mrs. NORTHUP) and, of course, the gentleman from Texas (Mr. CONAWAY) and the gentleman from Minnesota (Mr. KLINE). The gentleman from North Carolina (Mr. MCHENRY) is here, too. It is great to be here tonight to join with the team in talking about this. I did a quick count as we were talking about children and grandchildren. I think among the three of us, we have 15 children and 11 grandchildren. So it was really good particularly to hear the gentleman from Texas talking about our obligation to our children and our grandchildren. That is something that is so important, and it is an extremely important thing to mention tonight.

The problem that we have with Social Security, as has been pointed out by my colleagues, is a demographic problem. And thank God we are living longer today than folks did back in 1935 and 1936 when, as the gentlewoman from Kentucky (Mrs. NORTHUP) pointed out, the life expectancy was 61, 62 years old. You could not even get early benefits at that point. You had to be 65. So Social Security for the government was a pretty good deal. They were not really worried about the trust fund.

Unfortunately, Congresses over the last 70 years have spent the trust fund money. I will not say squandered it. Certainly they have not stolen it. They have spent the money on very worthwhile endeavors, whether it is K–12 education, higher ed, Head Start, veterans benefits, agriculture, you name your favorite Federal program. But now we are in a real bind and that trust fund is not there and even if it were, even if it were and we did nothing to change Social Security as we know it, we get to the year 2042 and if we do nothing, and the other side of the aisle basically so far is saying, hey, it's not a crisis, maybe it's a nuisance and let's try to ignore it and do nothing. If you do that, across the board, Social Security beneficiaries are going to receive 73 percent of that defined benefit plan, what we promised them; they would get 73 cents back on the dollar. That is just not acceptable.

One way to fix the system, of course, and we have talked about this, would be to change the way you calculate that first check. The way it has always been done has been based on average wages, and that is what our current 45 million-or-so Social Security beneficiaries, their initial check is based on average wages. Then, of course, there is a COLA, cost-of-living adjustment, every year.

One of the ways to fix this problem, to make sure that people get, the seniors who are continuing to receive their checks, would be to change the way we calculate the initial benefit for those who are not yet at retirement age and to go from that first check based on average wages to average prices. If we do that, then we will solve the Social Security solvency problem. But people who are not yet retired, who are approaching retirement, the younger workers, their initial check will be a benefit that is probably 30, 35 percent less than our current beneficiaries are receiving. They would continue to get a cost-of-living adjustment. That would fix the system.

What the President has said and what this majority is saying is, we can combine that with the option for our younger workers to invest in an individual personal account with up to 4 percent of the 12.4 percent FICA tax. That would be their money. It would be their account. They literally would have their name on it. It would enjoy the miracle of compound interest. And for somebody 25 years old, you would get 35 or 40 years' worth of compounding. At the end of the day, that is, at the point of their retirement, whether they take the early retirement at 62 or at their age of full retirement, the benefit they would accrue, and it could be as much as a total corpus of $250,000 in that individual personal account. That combined with their Social Security benefit check would mitigate a lot of that loss and they would get almost as much as the current retirees are receiving, or maybe even more depending on performance.

Basically, the President has said, Mr. Speaker, very clearly that anybody 55 years and older and current retirees would be completely held harmless from any loss in their benefit. They would continue to receive what they are getting. There would be no changes. And now the President has actually, Mr. Speaker, taken it a step further. A week or so ago in a press conference, President Bush for the first time introduced the idea of progressive indexing and basically said this: those workers, those younger workers who are at the lower level of income, their initial check at retirement would continue to be based on average wages, so that they would absolutely not suffer any loss in their benefit. Yet they would have that option, if they wanted to, to take a small portion of their account, up to 4 percent initially, and put it in an individual savings account. It would be guaranteed that they would not take any loss of benefit, but there would be the distinct possibility, if you think about and look at the stock market over any 10-year period of time since its inception, that the return on that investment in that individual account would compound, would grow, would enjoy the miracle of compounding and they would have a much larger benefit at the end of the day than they would if they had not chosen that option combined with Social Security as we know it.

I think the opportunity for us to come together in these late afternoon and evening sessions and talk to our colleagues on both sides of the aisle and make sure that they understand so they can go back into their districts and explain to their constituents, we each represent 630,000-or-so great Americans, those people back home are receiving a lot of misinformation. They are getting these automated phone calls, they are getting these direct mail pieces paid for by 527s and the unions and God knows who, and the well is being poisoned. These people need to know. They need the facts. They need some honesty.

I really appreciate the gentlewoman from Kentucky for giving us this opportunity to come together this evening and talk to our colleagues and make sure that they are listening and understand because we want what is fair and balanced; we want what is good for our parents and our grandparents, but we certainly want the best possible for our children and grandchildren.

Mrs. NORTHUP. I want to thank the gentleman from Georgia for joining us. I know you have talked at great length about this. You have worked so hard on it and talked to so many of your constituents, and you bring their wisdom and insights to us today. It is important that we talk about it. It is a very

complicated issue, talk about calculation of benefits; but it is very hopeful. It is hopeful that workers who are more likely going to depend on this even more, most of all because they are maybe in the lower third of wages, that they are going to have nothing but better opportunities. They are going to get the full benefit of calculation and the possibility of a personalized account also. For those at the highest end, they will have the calculation that starts maybe less, but they will have the personalized account that can give them every bit of what they would have gotten under the old system.

So lower-income workers would have nothing but a better opportunity. Higher-income workers would be able to have about the same thing that they have under the current system. Yet there is a huge difference. The system would be sustainable and solvent for our children and grandchildren.

There are people, as you know, that keep talking about why we should not change anything, but I think the point tonight is the hope and opportunity that exists in today's proposals.

The gentleman from North Carolina (Mr. MCHENRY) has joined us. He is one of our youngest, but brightest, Members. He is a leader on this issue. He has spoken on it with such great wisdom. I thank him for joining us tonight.

Mr. MCHENRY. Mr. Speaker, I certainly appreciate the gentlewoman from Kentucky hosting this hour. It is a wonderful opportunity for us to discuss the most important issue that this Congress is bringing forward. The most lasting reform is the best reform, and that is what we need to look forward to with this challenge of reforming Social Security. The Member that preceded me speaking was the gentleman from Georgia (Mr. GINGREY) who has taken on this issue with gusto and also the gentleman from Texas (Mr. CONAWAY) who is one of the first Members of Congress that actually said, let's get all the people at the table, let's get Democrats and Republicans and let's sit down with the AARP and let's try to discuss solutions for this challenge of Social Security. It was a wonderful thing to try to get all these players at a table together to talk about this most important issue.

Social Security is a program that is in trouble. It is in trouble because of the changing demographics of our Nation. It was built upon the idea that workers working today would pay for retirees that are retired currently. It was a system where workers would be taxed to help pay the benefits of retirees. That works when you have a large number of workers and a small number of retirees, but the changing demographics of our Nation require us to act in order to sustain this program.

When Social Security was formed, there were 41 or 42 workers per one retiree. Today, there are only 3.3 workers per one retiree. Therefore, that system of taxing current workers in order to give a benefit to current retirees does not work with those numbers. It is not sustainable. What we need to look for is permanent solvency, lasting solvency, for this program of Social Security.

It has been a vital institution for our Nation over the last 70 years. It has helped many seniors be lifted up out of poverty. It has given a strong benefit to those that maybe are not able to work anymore. And it is a commitment that we have made as a great Nation to those that have put in their fair share into the system, those that have worked their whole life, played fair, paid into the system, and done what was right. We need to maintain that obligation that we have made, that previous generations in this country have made to seniors. This Republican Congress, this Republican House, this Republican President, have taken this issue on so that we can do good things for our seniors. We do not want to break Social Security. We want to make it stronger. The key way to make it stronger, the key way to create permanent, lasting solvency is through personal retirement accounts. That is the vital component for any reform. There are a couple of options that we can look at.

First some say, well, let's just raise taxes, and we can keep those benefits going. Or let's subject new income and new forms of taxation on the American people and small businesses, and we can keep the income stream going. That may work. That may work. But in order to make that obligation, in order to meet our current obligation, taxes would have to double on Social Security. Taxes would have to keep going up in order to keep that commitment going.

Others have said, Well, let's just cut some benefits. Again, that may be an opportunity for some to consider. It is something I reject. I do not think we need to cut benefits or raise taxes. I do not think they are the right way of achieving solvency.

Mr. KINGSTON. If the gentleman will yield, I think it is important to think in terms of Social Security, there are two problems. One is of generational fairness, which we can talk about a little bit later. The other one is solvency, which you have been discussing. We have dealt with the solvency issue by cutting benefits and raising taxes many times over the years. In fact, since 1937 we have raised the taxes on Social Security 20 different times. That is the amount of your money that is taken out of your paycheck by the Federal Government, that FICA tax that all these 23-year-olds getting out of college have their first job and they discover somebody named FICA is sharing in their efforts, their sweat equity.

□ 1930

But that started out, as the gentleman knows, 1 percent and 1 percent in 1937; employer 1 percent, employee 1 percent. In 1960, it was 3 percent, 3 percent. In 1978, 5 percent, 5 percent. Today, it is over 6 percent. We have done that 20 different times.

We have also cut benefits. In 1983, we actually raised the retirement age from 65 to 67. That is a benefit cut because, over one's lifetime in receiving benefits, if they have to wait 2 more years, that is a reduction of their benefit.

So we have done that traditional solution, short-term political fix, which gets most politicians through their next term. And I am glad to hear the gentleman say that we have got to look for a different way to work on the solvency issue.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, let me just point out that as recently as 1993, many of our colleagues across the aisle participated in raising taxes on Social Security benefits. So, previously, far more of the Social Security benefits were untaxed at any level. Today, far more of them are taxed, and they are taxed at a higher level because of the tax increase in 1993. Now, the way I think about it is, if we start taxing Social Security and we tax it at a higher level, that is a reduction in benefits.

So I am shocked to hear some of our colleagues talk about criticizing anything about benefits when, in fact, there was an enormous chunk of Social Security benefits that were retaken back from seniors starting in 1993 because of the tax increase.

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

Mrs. NORTHUP. I yield to the gentleman from North Carolina.

Mr. MCHENRY. Mr. Speaker, this goes to the heart of the problem. As the gentleman from Georgia (Mr. KINGSTON) and the gentlewoman from Kentucky (Mrs. NORTHUP) have said, the heart of the problem is solvency. We have a system that is going progressively more insolvent each day. As the baby boomers begin to retire in 2008, 2009, we have a problem. We do. So the gentleman from Georgia (Mr. KINGSTON) mentioned solvency. The way in the past that we have achieved solvency was by raising taxes, cutting benefits. I prefer to say cutting taxes. That is just in my heart. But in terms of what we are trying to achieve, they have said we can cut some benefits, we can raise some taxes, and we can achieve solvency. The demographics of our Nation have changed so much that we have to look for the third way in order to get a better return on our Social Security investment, and the only way we can do that, the only way we can do that, is through personal retirement accounts. Much like 401(K) plans or IRAs or even the Thrift Savings Plan that current government employees, including us, have the benefit of. So it is wonderful, but that also goes to the heart. The heart of this issue is generational fairness, and I think that is an interesting point.

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

Mrs. NORTHUP. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I just wanted to say that the plans the gentleman from North Carolina is talking about are similar to mutual funds, which they, up here, are selling. But I wanted to mention this generational fairness issue because I think that is part of the kitchen table discussion, and I always say Social Security needs a kitchen table solution because, if we are talking with other seniors, we are not moving the ball down the road. If we are talking to college students, we are not moving the ball down the road. We have got to have Mom and Dad, grandparents and grandchildren at the kitchen table and say, What is fair? And this is why it is important: If one retired in 1980, they got all their benefits back. Every nickel that they paid into the system, they got it all back within 3 years. If one retired in 2003, it will take them 17 years.

And if the gentleman does not mind my getting personal, as I recall, his magic retirement age is 2041.

Mr. MCHENRY. Absolutely.

Mr. KINGSTON. Mr. Speaker, that is the year we cut benefits 27 percent unless we do something to protect and preserve the system. So for somebody like the gentleman who retires in 2041, it is going to take them probably 30 years. I do not know the mathematics. He may have figured it out, if he knows. But I know it will take him about 20 to 25 years at minimum to get all of his investment into it, and that means he can actually have a negative return; whereas there are a lot of people who have gotten a decent return out of Social Security, 5, 10 percent. But today, it is a 1 percent return, getting worse, and that is why there is a generational fairness.

My experience has been, when we talk to seniors and seniors who might even say, let us just raise taxes like we have in the past, we say, yes, but that does not solve the problem of the gentleman from North Carolina's (Mr. MCHENRY) friends. We are not worried about the gentleman from North Carolina, but we are going to worry about his friends. And the truth of the matter is when seniors say, Well, wait a second, you mean to tell me I have already gotten all my money back, but my kids will probably never get their money back? We say yes. Then we get into a real generational fairness. And that is why it is so important to have everybody at the kitchen table when we work on it.

Mr. MCHENRY. Mr. Speaker, if the gentlewoman from Kentucky will continue to yield, I spoke with a group of seniors in Hickory, North Carolina just 2 weeks ago and discussed Social Security reform, and I said all the proposals that have been put forward in front of Congress, all the proposals, if we consider every one of them, no single proposal, none of them, will change their current benefits if they are 55 and older. So those that are retired today, they should not allow AARP to lie to them in order to say that their benefits are going to be cut because no change to this program will allow for benefit cuts of current retirees. That is a pledge that we have all made in this Congress and our President has made as well. So I think we have to, first of all, be honest about it and tell our seniors today, this is not going to change their check. Their check is going to be there. We have made that commitment to them. They have played by the rules. They have paid into the system. They have played fair. So we are going to honor our commitment to them. However, it is important for them, if they are retired today, in order to make sure that their children and grandchildren have the same benefit that they are currently receiving. They want to leave them in a better system.

And I spoke to these retirees. I was at the seniors' games, in fact, 300 members of our seniors community, and I discussed this. And they said, Wonderful. They are actually happy that we are trying to take on this challenge for younger workers while at the same time keeping our commitment to those that are at or near retirement age.

So it is wonderful that the gentleman brings up generational fairness because, as the youngest Member of Congress and someone who is eligible to retire in 2041, that is the date that even some of the left wing Senators on the other side of the building here even admit that, in 2041, the system goes insolvent. So I think it is important that we discuss this issue of generational fairness.

I want to maintain the commitment to my grandmother, but at the same time, I want to make sure that my generation has the same benefit of a strong, vibrant Social Security system, so that when I retire, it is there, and it is affordable and reasonable.

And with that, I certainly appreciate the Secretary of our Republican Conference allowing me to have this colloquy here on the floor.

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

Mrs. NORTHUP. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I wanted to mention, if I can, that we met with the AARP, American Association for Retired People, the largest retirement group in America, and did it on a bipartisan basis. And the gentleman mentioned that the gentleman from Texas (Mr. CONAWAY) pulled that group together. One of the things I was glad to hear AARP say is, We admit there is a problem; there is a problem with Social Security. I can tell my colleagues, in Washington, that is a huge first step because, months ago, we were hearing, No, there is no problem, that the President is exaggerating. So let us say we have got a little bipartisan glimmer of hope here that there is a problem.

The next question might be then should we address it now or wait and punt for future Congresses and elections. AARP was a little more, Hey, it is probably right to discuss it now and try to get something done. The gentleman from Louisiana (Mr. MCCRERY) of the Committee on Ways and Means is going to start having hearings on it. In fact, I think he will this week, if I am not mistaken. Lots of hearings are good. Lots of thought, because, personally speaking, and I think I speak for my two colleagues, we do want Democrats at the table. We want this idea to say, Go into the meeting, but do not say these are my lines in the sand. Let us go into the meetings open minded.

Mr. MCHENRY. Mr. Speaker, if the gentlewoman will continue to yield, I would like to add one further thing. I enjoyed the piece the gentleman put together on Social Security reform and actually outlining what we in the conservative side of the House want to do in order to achieve lasting reform, to have generational fairness, while at the same time maintaining our commitment to have a strong, vibrant Social Security system. And I certainly appreciate what he wrote in the newspaper today. It was a wonderful article, and I recommend those who are watching or hear us here today to take a look at that, to understand what we are going for here by reforming this vital system.

And I certainly appreciate the gentlewoman from Kentucky taking on this challenge and leading our public affairs team in the House on the Republican side in such a good, strong direction by getting the message out on the need for reform and the positive aspects of it as well.

So with that, I thank the gentlewoman from Kentucky (Mrs. NORTHUP) for hosting this hour.

Mrs. NORTHUP. Mr. Speaker, I share my colleagues' concern about doing something now. The importance of it is easier to do it now because we can phase things in. We have opportunity and some time that we will not have if we wait until we are truly in a crisis.

But the crisis is coming on us very soon. The fact is baby boomers are going to retire starting in 2008, and then we will have a quick increase in the number of benefits, more people retiring and getting out of the workforce and basically fewer years in which to make any transitions.

One of the things that people say all the time that are on the ''we do not have to do anything now'' side is that they say we need to let the trust fund pay the benefits, all the money in the trust fund can pay the benefits up until a certain number of years. And, of course, the gentleman from Georgia (Mr. KINGSTON) knows there are no dollars in the trust fund. In fact, the trust fund never was meant to hold those dollars. They were meant to take in those dollars and lend them to the government.

Now, I suppose if we could bring back the Congress of 1945 and 1950 and 1955, we could ask them what their plans were for the year 2005, 2018, 2042. I suspect they would say that, as many

times have happened, at that point, the need seemed to be to provide those additional revenues to the government. Again in 1967, when Congress changed the benefit scheme, they added increased taxes on an increased basis that they paid into Social Security. They needed it to fund the war in Vietnam and to fund the Great Society. And I guess if we could bring back those Congresses we could say, What do you mean by spending Social Security taxes on the Great Society and the war? But that has passed. And the fact is that those dollars were spent.

I will say, though, that any company that took money into some sort of trust fund where there were going to be payouts expected would have had to accrue the liabilities, and if those liabilities had been accrued, along with the dollars in the trust fund, today, we would have $10 billion of accrued liabilities in the liability side across from the trust fund. So even if we had not spent the trust fund, not we but the Congresses of the past, before we got here, not spent the trust fund, the liabilities would swamp the dollars that are in the trust fund.

So it is important to recognize that generations before us benefitted from the dollars that came into Social Security but then were paid out for other government programs. They funded the Great Society. They funded education benefits. They funded defense. Things that those generations believed were important. Our current seniors. And now the responsibility for our children, of course, is to continue to fund investments in education, Pell grants, medical research, our defense programs and, at the same time, assume the responsibility for Social Security.

The exciting thing is, when we put our heads together, we can figure this out. The sooner we do it, the less difficult it will be so that benefits stay strong and are available to our seniors in succeeding generations, so that our children and grandchildren, as they meet the responsibility of retirees that go before them, can also grow within Social Security a solvent and sustainable system that will support their generation and the workers that are behind them in the system.

So I know that the gentleman from Georgia (Mr. KINGSTON) shares my belief that this is a time of hope and opportunity. We need to seize the moment and to really get the best ideas together to tackle the problem and set this program on a long-term course of sustainability.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

□ 1945

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman for yielding.

I wanted to say I think there are some real opportunities here to address a number of the issues. The gentlewoman has mentioned the diversion of some of the Social Security surplus fund. Our Democrat colleague, the gentleman from Mississippi (Mr. TAYLOR), has a bill I am interested in, and that bill has to do with a constitutional amendment that says any proceeds in the Social Security trust fund have to actually be taken completely off budget.

It does not really say where it could be held, because the problem is if the Federal Government has all that surplus, where do they put it? Do they invest it, do they buy gold with it, do they bury it in the ground, do they put it in a vault somewhere? You hate to think of billions and billions of dollars not earning interest. But I think the gentleman from Mississippi (Mr. TAYLOR) has an interesting bill. I am looking at it.

I also tried to figure out how do you do the lockbox. We have worked to try to get some sort of lockbox passed in the House in the past, and I am not sure we should reopen it. I have had some discussions about it, and it always boils down to, okay, you have a lockbox. What do you do with the money? I am a believer that if you almost did nothing with it, you would be better off than what we are doing now.

But I think that part of the Social Security solution is we should have a real discussion on what do you do with the temporary surplus. I say ''temporary surplus,'' because it will start to be gone in the year 2018, rapidly diminishing going to 2041.

But I think all these things, if we can get some bipartisan discussions going, I believe we will find some things we agree with the other party about.

The gentlewoman from Kentucky knows that when we sat down with the AARP and they showed us their set of core principles and we showed them our core principles, there was a lot of overlap. It was not perfect, ,but there was plenty to stay in the room and keep talking about.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, I agree that it was a very interesting discussion. I will say, and I know that our younger generation would appreciate this, that in the course of conversations, there was one person that said, Let me just ask you this for curiosity's sake: If we had to say to our children and grandchildren that because of confluence of things, the economy, America's leadership in the world, whatever, that we were able to pay better benefits to current retirees and those about to retire, but you are just unlucky and you are not going to have the same benefits and that is just going to be where you fall in history, would that be acceptable?

I think pretty much everybody in the room said that would not be acceptable, that that would not be something that any of us feel we could say to our children and grandchildren.

Now, the opportunity is that we do not have to; that at the same time we shoulder the responsibilities of those that have retired and those about to retire, and at the same time we meet our responsibilities to domestic programs, that by investing in Social Security, and, yes, taking it off budget so we do not spend the surplus, yes, allowing personalized accounts, yes, guaranteeing those in the lower one-third of income full calculations, like they have always had, and for those in higher levels, maybe they would have a combination of personalized accounts and a different calculation, that all of that can make the system solvent, sustainable, and also maintain benefits.

For those who think raising taxes is the answer, I think it is important to recognize that everything in this country, our domestic programs, Social Security's long-term solvency, depends on a growing and vibrant economy, and without that, this country will be in dire financial straits.

When you look at a country like France that has maintained retirees' benefits, but at the same time has done it purely by taxing more and more in more and more ways and at higher and higher levels, basically what they have done is create a society that is stale, that is not growing and is not able to provide the revenues they hoped the tax increases would bring.

Mr. KINGSTON. Mr. Speaker, if the gentlewoman would yield, I am glad the gentlewoman brought that up, because one of the things that is interesting, and I have traveled in some of the Eastern Bloc countries, and one thing that really amazes me when you talk to countries like Bulgaria or Lithuania, Latvia, Estonia, the Czech Republic, these countries that only 10 to 15 years ago were freed from Soviet oppression and they are now out experimenting with democracy and the rule of law, one of the things they realize is if you have absolute security for everybody in terms of government-sustained programs, then you do not have any work base and your economy does not move forward. You have done a lot of things at the cost of opportunity.

I think France is a miserable country in terms of an economic role model. I see a lot of these other countries that are really growing and making some huge changes and taking some bold steps.

I think one of the things we have to do is realize that decisions of 1937, do you want to still be driving a car and relying on communications or medical systems from 1937? Yet when it comes to social programs, we think a 1937 social model is the best thing in the world, the best we can do.

That is what bothers me. Because we are Americans. We should not fear. We should be able to be world leaders and not have to point to other countries and say, well, you know, look, this is what we want to do. We need to be braver and stronger and not become a nanny state.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, if today Social Security was just being designed, if we knew that people who get to be 65 are probably going to live 17 more years, if

we knew that you were going to work a certain number of years and then you were going to be able to have a life expectancy that would go on for a number of years, you might have dreams of traveling, of going to visit your grandchildren, of staying in your home and being able to maintain it, all of those dreams would depend on an entirely different savings and retirement system than the system that was designed in 1945. You certainly would not design Social Security today like they designed it back in 1945.

So to just steadfastly refuse to concede that opportunities are better for Americans, there is a new paradigm in retirement that exists, there are new opportunities, and there is a new way of deriving benefits that grow the economy, that do not overencumber the workers that are still in the workforce, we would do that in a minute.

It is disappointing that we have not been able to move further in this discussion than we have. But as we all know, it takes a lot of discussion.

I am eager to hear from my seniors. I know the gentleman is. Even though things will not change for them, I think it is important that we continue to invite our seniors to the table because seniors have always not only protected Social Security for their current benefits, but been very eager to make sure that it was going to be there for their children and grandchildren.

I thank them for their continued investment in time and interest for that.

Mr. KINGSTON. If the gentlewoman will yield, I again want to say that we often get bogged down in the politics of the moment, the politics of the next election, the politics of the current 5 years or whatever; and we should be thinking in terms of the next generation rather than the next election.

But the other thing that I keep coming back to is because there are two issues, a solvency issue and a generational fairness issue, what my job assignment, my homework assignment is, when I have a town meeting I say to everybody, what I really want to ask you, sit down at the kitchen table with the parents, with the grandkids and the grandparents, and figure it out. Just see if you can find that balance.

I had one guy in a town meeting say, This is all about greed. All you have to do is increase the taxes 1 percent. He was 70 years old. He would not be paying taxes. The guy behind him was 30 years old and said, Sir, respectfully, I have to tell you that is not acceptable for me, because I am going to be the one paying.

Similarly, a lot of people think the golden arrow here is taking the cap off it. But if you take the cap off it, people get more benefits.

One thing to keep in mind, anytime you make it more expensive to hire an employee, then our folks are going to be going offshore with the jobs. We are already losing too many jobs offshore. Furthermore, there will be a lot of illegal aliens in America not paying into the system. I think part of Social Security should be tied into illegal immigration. It is actually not immigration if it is illegal; you are here as an illegal alien.

All of this stuff, we should get the best ideas of the Democrats and Republicans, throw them on the table, get the folks back home to say this is the direction we want, and that is what we are trying to accomplish here.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, I thank the gentleman for joining me tonight. The gentleman from Georgia (Mr. KINGSTON) is a leader in our conference and a leader on Social Security, and, of course, has long been appreciated for the ability to take very complicated issues and talk about them in ways that we all understand, and we can share and benefit from his insights.

I want to end tonight by saying that we are all more concerned about the next generation than the next election, and how much we appreciate our President, who from the day the last election was over did not forget that through that campaign he talked about the importance of taking on this tough issue, and did it so well and has been out talking to the American people. It is very refreshing to see somebody take on such a tough challenge and talk to the American people about it.

VOTE ''NO'' ON THE CENTRAL AMERICAN FREE TRADE AGREEMENT

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

Mr. BROWN of Ohio. Mr. Speaker, this evening I am joined by fellow House Members, the gentleman from Ohio (Mr. KUCINICH), the gentleman from Missouri (Mr. CARNAHAN), a freshman, and other House Members who will join us shortly as we talk a little bit about the Central American Free Trade Agreement. Some call it the Central American Free Labor Agreement, as we will soon see.

As you can see by this calendar, we are barely 2 weeks away from the deadline set by the House majority leader, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the House of Representatives, for a vote. They plan a vote in this Chamber on the Central American Free Trade Agreement. This deadline coincides with the 1-year anniversary of when President Bush signed the agreement.

That does not seem like news, except for this: every trade agreement signed by the Bush administration in his 4½ years in office, every single trade agreement signed by the Bush administration has been voted on within 60 days of its signing. The President signs the agreement with Australia, with Singapore, with Chile, with Morocco; and this Congress votes on it right away, in large part because there is not huge opposition to the trade agreements.

This time, we are now at 347 days since Congress, since the President signed the Central American Free Trade Agreement. That is how long CAFTA has languished in Congress without a vote. Why? Because Democrats and Republicans alike, people on this side of the aisle, people on that side of the aisle, understand that the Central American Free Trade Agreement is dead on arrival in the House of Representatives.

Last month, two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations echoing a united message: vote ''no'' on the Central American Free Trade Agreement. Yesterday, just outside this building across the street, more than 400 union workers and Members of Congress again gathered in front of the U.S. Capitol to deliver a united message; vote ''no'' on the Central American Free Trade Agreement.

So Republican leaders in this House and the Bush administration understood they had a problem. On this day it will be 12 months, 1 year, since the President sent CAFTA to Congress. There is not the support in this country or this Congress for this trade agreement because people understand what it does to our Nation, what it does to our workers, what it does to our food safety, what it does to the environment.

So what did the Republican leaders and President Bush do? They brought the six presidents of these five Central American countries and the Dominican Republic, they brought these six presidents to the United States. In fact, the six presidents are touring our Nation on a United States Chamber of Commerce junket going around the country trying to convince the American people, the press, and the American Congress to vote for the Central American Free Trade Agreement.

They traveled to Miami. They went to Los Angeles, they went to Albuquerque, they came to my State of Ohio attempting to convince Americans this is a good idea.

The Bush administration has not been able to sell it. Business in this country has not been able to sell it. The free trade ideologues in this Congress who need your vote for every trade agreement, they have not been able to sell it.

So what is next? They bring the six presidents from Central America to come in. Unfortunately, these presidents are not telling the whole story. Like our own President, they tried to convince us that CAFTA will lift up low-income workers and that CAFTA will create jobs here at home.

□ 2000

First of all, there is no truth to that. We have heard that on every trade agreement. But what they do not say

about CAFTA, what they have not said is that the combined purchasing power of the CAFTA nations, the combined purchasing power is equal to that of Columbus, Ohio, or equal to that of Orlando, Florida, or equal to that of Memphis, Tennessee. They do not discuss the fact that people in Central America, the Central American Free Trade Agreement, these six countries, they do not discuss the fact that they are not making enough money to buy cars made in Ohio; they are not making enough money to buy software made in Washington State or steel made in Pennsylvania, or textiles or apparel made in North Carolina or South Carolina or Georgia, or planes made in Washington State. Why? Because look at the average wage in these countries.

The average wage in the United States is $38,000. People who are making $38,000, the average wage, can usually own a car, oftentimes own a small home, at least rent an apartment, sometimes own a home. People making $38,000 a year are buying shoes. They are paying into Medicare. They are buying clothes. They are consumers. They are buying products. But look at the rest of the countries in the Central American Free Trade Agreement: Costa Rica, $9,000; Dominican Republic, average salary $6,000 a year; El Salvador, $4,800; Guatemala, $4,100; Honduras, $2,600; Nicaragua $2,300. They are not going to buy cars made in Ohio. They are not going to buy steel made in West Virginia. They are not going to buy software from Seattle. They are not going to buy textiles from North Carolina. What is this all about?

What this is about is for U.S. companies to offsource, outsource offshore, send offshore jobs to these low-income countries. They will set up factories in Nicaragua, so they will pay Nicaraguan pennies on the dollar to manufacture products to sell back into the United States. It will not raise their standard of living in Nicaragua; it will certainly hurt our standard of living in this country.

But let me for a moment share again, when these six presidents toured the United States, what they said and what they did not say. What they did not say, with all due respect to these Central American leaders, they did not tell us that NAFTA–CAFTA does nothing to ensure enforcement of labor provisions in their own country. They have not told reporters or the Congress or the public that more than 8,000 Guatemalan workers protested against CAFTA last month; two of them were killed by the police in Guatemala. They did not mention that tens of thousands of El Salvadorans who protested the Central American Free Trade Agreement a year-and-a-half ago. They do not mention the 18,000 letters sent last year by Honduran workers to the Honduran Congress protesting, decrying this dysfunctional cousin of NAFTA. They did not tell us about the 10,000 people who protested CAFTA in Nicaragua in 2003. They did not tell us about the 30,000 CAFTA protestors in Costa Rica just this past fall. Hundreds of thousands of workers in these six countries have protested in 50 demonstrations in the last 3 years saying that CAFTA is not good for those countries.

Before yielding to the gentleman from Ohio (Mr. KUCINICH), I want to sort of finish this story of the six presidents. The six presidents last night assembled in Washington in the midst of their travels around the United States to sell the American people on a bad trade agreement between us and them. The U.S. Chamber of Commerce hosted a reception for these visiting dignitaries rewarding them for their lobbying efforts. You can walk around the Capitol today and the last couple of days and you would see these presidents going from office to office to office trying to convince American Members of Congress that they should pass this trade agreement. But they were rewarded for their efforts at a very lavish reception at the U.S. Chamber of Commerce last night.

You can see these presidents raise their glasses, toasting these U.S., these large corporations in the country, thanking them for this tour; you can see these corporate CEOs raising their glasses, toasting these presidents of the six countries, thanking them for fighting for this trade agreement which will, more than anything, help these large businesses. I wondered if these CEOs and I wondered if these six presidents reflected on what happens to small businesses in Ohio and Michigan, those that do not want another failed trade agreement. I wondered if they thought about the family farms in North Carolina and Louisiana holding on for dear life. I wondered if they thought about those workers in Nicaragua and Costa Rica and Guatemala and El Salvador and Honduras and the Dominican Republic. I wondered if they thought about that when they were toasting, the CEOs were toasting the six presidents and the six presidents were toasting the CEOs. My guess is they did not.

Tonight, we are here in this Special Order to talk about CAFTA facts and the fact that CAFTA is dead on arrival and the fact, as I mentioned earlier, that we are now down to 16 days. It will be 1 year, and this deadline is approaching, 16 days until CAFTA is absolutely buried.

I yield to my friend from my neighboring district in Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman. I want to say that the people of Ohio are proud of the gentleman and the work that he has done in challenging these unfair trade agreements. For me to have a chance to join the gentleman in this important challenge to CAFTA is a privilege, and I again want to commend the gentleman for the service that he has given to the people.

I want to focus for a moment on one particular impact of CAFTA, and that is the impact on the availability of generic drugs, something that is another issue that the gentleman has worked on.

While the Bush administration says that they understand the need for lower-cost medicines in developing countries, their actions demonstrate greater concern for protecting the extremely high profitability of leading pharmaceutical companies. In the trade talks that resulted in the Central American Free Trade Agreement, CAFTA, our government pressed for tighter restrictions on generic drugs in the Central American countries. The result will be higher prices for medicines and higher profits for the pharmaceutical industry paid for by some of the poorest people on earth.

CAFTA has been one of the Bush administration's highest priorities in international trade. As we know, it extends the NAFTA agreement to all of the Central American countries that happen to be small and poor. The CAFTA countries include Guatemala, Nicaragua, El Salvador, Costa Rica, Honduras, and the Dominican Republic. It was formally signed by the administration, and it awaits congressional votes, which is why we are here to appeal to the Members of Congress to think long and hard before they would even consider supporting CAFTA.

The Central American countries that would be affected by CAFTA have significant health problems. AIDS, for instance, is more prevalent in the CAFTA countries taken as a whole than in the United States. According to Dr. Manuel Munoz, the director of Medecins Sans Frontiere's AIDS treatment program in Honduras, ''HIV/AIDS kills one person in Honduras every 2 hours, because the vast majority of people with HIV/AIDS cannot afford lifesaving AIDS medicines.'' Malaria and tuberculosis are also prevalent. As a result, the people of these countries need greater access to essential medicines. Yet, CAFTA will make access more difficult for most residents and impossible for too many of them.

CAFTA accomplishes this by imposing new restrictions on the use of pharmaceutical regulatory data that will have the effect of limiting the availability of generic drugs.

Pharmaceutical regulatory data is the result of studies of patent medicine's efficacy and safety. These studies are performed by the companies seeking approval and are often expensive to undertake. The data are submitted to the drug regulatory agency in the company's application for approval.

When a company seeks to manufacture a generic version of a patent medicine, it must typically show that its product is the chemical equivalent of the patent medicine and that it works in the body in the same way. The generic producer relies upon the drug regulatory agency's prior approval of the patent medicine to make its case of approval of the generic version.

What CAFTA does is it gives extra patent protections to the drug regulatory data, thereby excluding any other user from relying upon them. In other words, not only might a particular medicine be protected by a patent, but, additionally, the drug regulatory data for that medicine is protected by a patent. Even if the medicine's patent expires, generic manufacture could be restricted due to the additional patent on the use of regulatory data. According to Robert Weissman, an attorney specializing in international trade and pharmaceuticals, ''if the generics cannot rely on approvals granted based on the brand-name data, in most cases, they simply will not enter the market. This is especially true in small size markets, as in Central America, where prospective revenues are limited.''

Now, CAFTA was formally signed on May 28, 2004. It will only become law if Congress passes it. In 2002, the pharmaceutical industry gave over $29 million in political contributions; three-quarters of that was donated to the Republicans.

Recently, I am sure the gentleman is aware, the pharmaceutical companies have been expatriating their profits to avoid paying income taxes here in the United States. They really do not want to pay income taxes there, but they want to control the political process here and, by reference, in Central America with the help of these trade agreements. I am glad to join the gentleman from Ohio (Mr. BROWN) in urging the Members of Congress to oppose CAFTA. Not only is it bad for workers, not only is it bad for human rights, not only is it bad for the environment, but it is bad for people's health.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio. Think about what he just said. This agreement has made it even harder for the poorest people in this hemisphere; again, look at the income here. The United States average income, $38,000. The gentleman from Ohio (Mr. KUCINICH) mentioned Nicaragua, Guatemala, Honduras especially; their income is less than 10 percent of ours, literally, and they are forcing, because U.S. drug companies have convinced the United States Trade Representative's Office, appointed by the Bush administration, convinced them to squeeze the poorest people in the world even harder on paying for prescription drugs. I mean, it is just, when we talk about values, when we talk about morality, to do that to the poorest of the poor that need HIV drugs, that need malaria drugs, that need tuberculosis drugs, that need antibiotics, and they are going to end up paying more money because, in fact, the United States Trade Representative said to the government of one country, If you do not change your laws, the gentleman from Ohio (Mr. KUCINICH) talked about this and has talked about it before, if you do not change your laws, we are not going to allow you into the Central America Free Trade Agreement.

It is not like the drug industry does not have way too much power with the gentleman from Texas (Mr. DELAY) and with Republican leadership and in the White House here in this country, where people are paying two and three and four times what they ought to be paying for prescription drugs; now we are seeing that drug industry exert its power, helped by the U.S. Government, in the poorest countries in the Western Hemisphere.

Mr. KUCINICH. Mr. Speaker, when you carry this along to its conclusion, what we have is a condition where the people in the poorest countries cannot protect their health. So we are looking at their life expectancy beginning to decline, and one of the reasons is because they cannot afford the cost of the prescription drugs. And just as people here are held hostage by the pharmaceutical companies with the high cost of prescription drugs, imagine what it is like for these poor people in Central America, who are making a tenth, if that, of what we make in this country, and they are paying a high cost for prescription drugs because the pharmaceutical companies want these trade agreements which protect their patents and will not permit generics to get the help to people that need it the most.

Mr. BROWN of Ohio. Exactly right. I thank the gentleman.

As I said, Mr. Speaker, the gentleman from Missouri (Mr. CARNAHAN) has joined us. We are also joined by the gentlewoman from Illinois (Ms. SCHAKOWSKY), who has worked on trade agreements for years; and the gentlewoman from Ohio (Ms. KAPTUR), my colleague on the other side of the State bordering my district to the west, who has been involved in trade agreements probably longer and more aggressively and more assertively than I think any Member of this body; the gentleman from Missouri (Mr. CARNAHAN), a freshman who has taken this issue and run with it. I yield to the gentleman.

Mr. CARNAHAN. Mr. Speaker, it is great to be with the gentleman from Ohio on behalf of the great people of the State of Missouri that I am fortunate to represent. I want to rise tonight to add my voice in opposition to the Central American Free Trade Agreement.

I have several concerns with the agreement in its current form, not the least of which are the effects it will have on American workers and the middle class. Trade agreements like CAFTA enable American companies employing American workers to send multiple aspects of their business overseas. This in turn allows these companies to exploit cheap labor in developing countries and import their products back into the United States. The resulting problem is really twofold.

First, there are no real protections for the workers in the Central American countries, and second, it is yet another means to put American workers out of work. CAFTA's answer to protecting low-wage workers in Central America is a self-enforcement provision.

□ 2015

This really is translated into a nonenforcement provision because it will not help these workers in any way. The countries involved in this agreement do not have the necessary legal framework in place to protect the basic and fundamental rights of working people. If we are going to enter into trade agreements with other countries, it is our responsibility to ensure we protect the basic rights of working people in those countries and here at home.

Mr. Speaker, the other glaring deficiency with CAFTA is it will essentially fire American workers. Approving this agreement will be a guarantee that more jobs will leave our country at the expense of our U.S. workforce. Because there are no labor protections in place in the Central American countries to ensure adequate wages, domestic companies can simply outsource their work to these countries at a low rate and leave our workers out.

I will not support any agreement that displaces American workers and does not support basic human rights. I want to urge my colleagues to oppose CAFTA in its current form.

I want to also mention the differences between these two markets, the U.S. market and the Central American market. The U.S. economy had a $10.5 trillion GDP in 2002. It is about 170 times the size of the economies in the Central American nations. It does not take a trade expert to see the economic mismatch between the U.S. and CAFTA nations.

The viability of Central American nations as trading partners is an important part of the administration's CAFTA sales pitch. That is why U.S. trade representatives said Central America offers ''expanded markets for American producers and new opportunities for U.S. workers and manufacturers.''

But take a look at the U.S. Conference of Mayors Metro Economies report released in 2003. It confirms the administration's CAFTA numbers do not add up. The combined economic output of CAFTA signatories, Costa Rica, Honduras, El Salvador, Nicaragua, Guatemala is about equal to that of Orlando, Florida, as the gentleman from Ohio (Mr. BROWN) mentioned earlier. This falls far short of what the projections are by the Bush administration.

These raw numbers are bad enough. Consider the fact that a typical Central American consumer earns only a small fraction of a typical American worker's wage, about $191 a month. It is clear that CAFTA's true objective is not to increase U.S. exports. Central American consumers cannot afford to buy American-made goods today. And CAFTA's inadequate labor provisions ensure they will be unable to afford American-made goods tomorrow. This

agreement offers little or no economic opportunity for American workers and producers. The CAFTA model is really a recipe for disaster. Congress must devise a trade agreement to promote business development and jobs in the U.S.

CAFTA should help Central American workers earn enough to buy American-made products. It is time to rethink U.S. trade policy, to do what is right, not just for the big corporations, but what is right for workers, small business, communities, and the environment.

The President is on the wrong track. Congress must demand a smarter trade deal than the current CAFTA negotiation.

I thank the gentleman for leading this tonight, and it is good to be here with you and the other Members to speak out on this.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Missouri (Mr. CARNAHAN), for his good work and his interest, both in protecting American jobs and his interest in fair play in Central America so workers there have their living standards raised rather than continue to stagnate, which is what these trade agreements have done.

We are also joined by the gentleman from Ohio (Mr. STRICKLAND).

I yield next to the gentlewoman from Ohio (Ms. KAPTUR) who, as I said, has been working on trade issues for her entire 23 years in this Congress.

Ms. KAPTUR. Mr. Speaker, that is the way it has turned out to be, and I want to thank the gentleman from Ohio (Mr. BROWN) for his great leadership and vision and taking this CAFTA fight to the American people. It is a great privilege also to join with the gentleman from Ohio (Mr. STRICKLAND), our esteemed colleague from south and southeastern Ohio, who I know will be adding remarks and great insight as the evening proceeds; the gentlewoman from Illinois (Ms. SCHAKOWSKY); the gentleman from Missouri (Mr. CARNAHAN); and we had the gentleman from Ohio (Mr. KUCINICH) from the Cleveland area here a little bit earlier.

It is really amazing to me when you have a trade agreement like NAFTA, that is so absolutely a failure, that now there is a new trade scheme, and they have got a name that rhymes with NAFTA. I just, I cannot believe it. I cannot believe they are over there. They have got a cookie-cutter system, and they are not paying attention to results.

If we look at the recent history of our country, going back to the mid-1970s, when the first so-called free trade agreement was signed, every single year the United States has begun to develop trade deficits. That means we ship out more jobs abroad than we create jobs here at home. And we end up taking our income and paying somebody else to do the work that we used to do, and we accumulate these growing trade deficits. And they get worse with every decade.

When NAFTA passed in the early 1990s, we actually had a trade surplus with Mexico, which immediately turned into a trade deficit; and with Canada we have doubled the deficit that we already had. When we signed the agreement with China, which those of us who were here voted against, we did not get any more jobs. We did not get any more income. All we got was more trade deficit. It is so deep America has never been in this kind of deep water before. In fact, this year the trade deficit will accumulate at over half a trillion dollars. America has never faced this kind of loss. So it is amazing to me that they name an agreement to rhyme with one of the biggest failures.

And here are some charts, I think, that tell a fuller story about what has happened with the NAFTA agreement. When NAFTA was signed in 1994, we had accumulated trade deficits with Canada; but then every succeeding year, they got deeper and deeper and deeper. So, with Canada, we have not really benefited.

And with Mexico, the surplus we had turned into a gigantic and growing deficit. And now what is happening with Mexico, of course, some of those jobs are being shifted to Latin America and to China. So NAFTA has been a negative.

And what has been going on in terms of the United States, just take the auto industry which is the primary category of deficit with Mexico. We were already getting imports from Mexico prior to NAFTA's signing. Now it is just an avalanche coming the other way. And what we predicted has come true. Mexico has turned into an export platform to the United States. And what we are doing is actually creating a world system where people work for poverty wages or starvation wages. We have high-productivity poverty rather than high-productivity prosperity.

And, finally, if one looks at the China agreement which has a relationship here because this is the same cookie-cutter approach that they are giving us with China, the deficits were growing, but then when permanent normal trade relations, if you can call an abnormal trade deficit normal, I have never understood the words they use. We are just hemorrhaging with China. And just one company alone, Wal-Mart, takes 10 percent of the exports that China sends around the world.

So my basic point here this evening is, why should we have more of the same? Why should we believe them when they say it is going to be all right?

And, indeed, I would like to place in the RECORD an article that was in the New York Times this week where the President of Costa Rica actually said he wants to postpone legislative review on this so-called CAFTA, which is an expansion of NAFTA, until an independent committee finds that it will not harm the poor. Well, it surely will harm the poor. And that is why, in nations like Mexico, we have historic demonstrations in Mexico City for example, of farmers, of peasants, of people just demonstrating and saying we cannot take it anymore; particularly in the countryside, the people are saying we cannot take it anymore.

So I want to thank my colleague for bringing this issue to light. I think we have to be careful of the administration and their efforts to try to come in here and try to buy votes and say, what kinds of transportation project do you like? Oh, how much do you want? Do you need a bridge? Which way do you want it to go, east west, up, down, you know, below the ocean floor? I mean, we will do it for you. What else do you need? Do you need a base? We are moving a few bases around. That is what happened during NAFTA at the very end. The American people would have won that debate, but it was bought. It was bought and sold. And now look at the negative yield that it has produced for the American people.

So I thank the gentleman from Ohio (Mr. BROWN) for highlighting this this evening. And it has been a pleasure to join my colleagues tonight.

[From the New York Times, May 10, 2005]

FREE TRADE PACT FACES TROUBLE IN CONGRESS

(By Elizabeth Becker)

WASHINGTON.—Social Security is not the administration's only economic initiative that is in trouble in Congress.

The current centerpiece of President Bush's trade agenda, the Central American Free Trade Agreement, is facing unusually united Democratic opposition as well as serious problems in overcoming well-entrenched special interest groups like sugar producers and much of the textile industry.

With record trade deficits, concerns about lost jobs and an overarching fear that the United States is losing out in the accelerated pace of global changes, the sentiment in Congress is shifting away from approving new free trade agreements.

''I don't like Cafta; I am not going to vote for it; and I will do whatever I can to kill it,'' said Senator HARRY REID of Nevada, the minority leader. ''We are approaching a trillion-dollar trade deficit. We can't survive as a viable, strong country doing that.''

Even more troubling to the administration, which says free trade agreements are critical components of any effort to enhance American global competitiveness, is the stance of Republicans like Senator SAXBY CHAMBLISS of Georgia, who wants to hold off on new bilateral trade agreements.

In a speech on the Senate floor and in a later opinion-page article in the newspaper The Hill, Senator CHAMBLISS said that even though his state is home to global companies like Coca-Cola, United Parcel Service and Georgia Pacific, he could no longer support bilateral trade agreements without being assured that ''American industries and workers are truly benefiting from these agreements.''

The trade deal, which was signed one year ago, involves a handful of tiny countries: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. But its prospects for moving forward have been soured by larger questions about China's enormous economic power and whether it is playing by the rules

of trade in protecting intellectual property rights, valuing its currency and calibrating the tide of its textile exports. Also playing into the situation are unmet expectations from the North American Free Trade Agreement.

The administration accuses the Democrats and other opponents of putting too much on the back of this trade deal, which would reduce tariffs for many American goods and, the White House says, improve the chances for democracy and free market economics in Latin America.

''Cafta can't be held captive to China or any other trade problem,'' said Commerce Secretary Carlos M. Gutierrez, who has been crisscrossing the country trying to sell the agreement since he took office in January.

The administration admits that even in this off-election year, when trade deals have the best chance of passage, it does not have the votes to pass this one.

With little sign of progress, both sides notched up the battle last week. President Bush announced that he would play host this week at a high-profile White House meeting. Since his first term, the Bush administration has promoted free trade agreements with Central America and throughout the Western Hemisphere as important components of its foreign policy.

''For too many decades,'' Secretary of State Condoleezza Rice said in a speech before the Council of the Americas, ''U.S. policy toward Central America and the Dominican Republic has oscillated from engagement to disregard. With Cafta, with the permanent engagement that free trade brings, we can break this trend once and for all and we can demonstrate that the United States is committed to the success of all Latin American countries that embrace the challenge of democracy.''

On the other side, centrist Democrats who normally vote for every new trade deal said they opposed Cafta. They said the administration had yet to outline a clear policy aimed at narrowing the $617 billion trade deficit. And they challenged the White House to write trade deals that reflected what they saw as the pressing challenges of globalization in the 21st century.

The administration characterizes most of these complaints as protectionism and hopes that Rob Portman, the new United States trade representative and a popular former member of Congress, will be able to smooth the debate and win votes to its side.

But Representative Benjamin L. Cardin of Maryland, the ranking Democrat on the Subcommittee on Trade of the House Ways and Means Committee, said in an interview that Cafta was too small a treaty to warrant such attention.

''Cafta will have a minor impact on our economy; we should be spending time on the big issues like China, agricultural subsidies,'' Mr. Cardin said. ''If I were the administration, I would not like my trade agenda to be judged on Cafta.''

Despite its small weight, many interest groups are deeply divided over Cafta. The Latino groups and politicians who oppose Cafta say that Nafta, the decade-old agreement with Mexico and Canada, failed to fulfill its promise.

Representative Hilda Solis, Democrat of California, who describes herself as the only member of Congress of Central American descent, said she opposed Cafta because of Nafta's record, which she said included 750,000 jobs lost in the United States and little progress in improving workers' rights in Mexico.

By contrast, Mr. Gutierrez, the commerce secretary, said Nafta was a strong selling point for Cafta.

''I've been associated with Mexico for almost four decades and Mexico is better than it has ever been,'' said Mr. Gutierrez, who started his career in that country after fleeing Cuba as a child. ''It now has its lowest inflation rate, and its growth last year was 4.5 percent.''

But questions about labor rights and lost jobs are staying at the forefront of the trade debate, not retreating. American labor unions say the accord demands better enforcement of existing labor laws in Central America without imposing real sanctions. The administration defends the labor provisions as groundbreaking.

Even the countries within Cafta have some noticeable divisions. The ambassadors to the United States from Cafta countries are traveling around the nation to try to persuade members of Congress to vote for the accord.

But Beatrice de Carrillo, El Salvador's human rights ombudswoman, said in an interview here that she opposed Cafta because it was not strong enough to stop the destruction of unions. And Costa Rica's president, Abel Pacheco, has said he wants to postpone legislative review until an independent committee finds that it will not harm the poor.

Mr. BROWN of Ohio. I thank my friend from Toledo, the gentlewoman from Ohio (Ms. KAPTUR). And the gentlewoman is exactly right. I have a chart just with the Mexico trade deficit. The gentlewoman talked about Canada, the U.S., all of this. And you can see, we went from a trade surplus when NAFTA was signed to this, over $40 billion.

And I look at the year that the gentleman from Ohio (Mr. STRICKLAND) and I were elected to Congress in 1992. The United States, and I do not want to bore people with numbers, but in 1992, the year we first ran, the United States had a $38 billion trade deficit with the world. That meant we bought $38 billion more than we exported. Last year we had a trade deficit of $620 billion.

Every trade agreement, as the gentlewoman from Ohio (Ms. KAPTUR) says, they promise the same thing. They say more growth in the United States, more jobs, more manufacturing, more exports to the United States if you pass this trade agreement. Every time Congress passes one, it gets worse. The trade deficit keeps growing. The job loss keeps increasing.

The definition of insanity is when you do the same thing over and over and over again and you expect a different outcome. They are asking us to do the same thing. So we can see these same numbers come with Central America by increasing, increasing, increasing, increasing deficits every year.

I would yield to my friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY). I thank the gentlewoman for her leadership, especially on trade issues and jobs issues and health issues.

Ms. SCHAKOWSKY. I thank the gentleman from Ohio (Mr. BROWN), one of our best experts on trade. And in fact, the gentleman actually wrote the book, or at least a book on trade called ''Myths of Free Trade,'' a book I am happy to have and learn a lot from. And I am pleased to join all my colleagues. It is interesting that, so far anyway, those of us who are here tonight are from the Midwest where we have seen so many of our manufacturing jobs lost since the passage of NAFTA over 10 years ago.

But, you know, I think as a people, as a Congress, certainly, we have to say why do we want free trade agreements? What is the purpose of trade agreements?

I think all of us here think that we know that there now is a global marketplace, that the goal of economic integration, when done in the right way, is not only inevitable but can actually be desirable. The question is who benefits from it? What are, who are the winners and who are the losers? And what is CAFTA for?

And, unfortunately, what we find is that the ordinary people of this country, and the ordinary people of the Central American countries now, the Dominican Republic and the Central American countries that are supposed to be part of CAFTA, it is the ordinary people, the everyday citizens, the hard-working people that are the losers, and the only ones who are the winners are corporations that really have no particular loyalty. They can pick up their capital, they can move their plants, as they did from Illinois. We lost about 100,000 jobs because of NAFTA. We saw a plant, a profitable plant, a Maytag plant, a nice manufacturing plant in Galesburg, Illinois, pick up and take with it over a thousand jobs. This was a plant that was actually making money. Why did it move? Because it could actually make more money by exploiting workers when they moved to Mexico.

In a trip that was in part organized by my colleague, the gentlewoman from Ohio (Ms. KAPTUR), I had the privilege of going to Ciudad Juarez last year, a town that is really in the metropolitan area of El Paso, Texas, separated by the Rio Grande River. And on one side of the river you have got workers who are looking for good jobs to support their families; and on the other side of the river, we see people who are working in the plants for American companies. And what we saw were workers who were actually, some of them, actually living in the packing crates of the products that they were manufacturing for the companies, the American companies that took those good-paying jobs and went to Mexico.

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Mr. STRICKLAND. Mr. Speaker, I had the privilege of being there with the gentlewoman, and I think we both really felt deeply in our hearts the pain as we talked with workers.

I remember one woman that we talked with who had children, and she told us she worked 9.5 hours a day, 5 days a week. She had 30 minutes during the day as a break, and her total take-home pay was $38 a week. And I just will never forget that woman and the fact that we have a government that

has participated in that kind of what I would consider immoral situation where a working mother would work that hard and be compensated at that level. It is just pathetic.

Ms. SCHAKOWSKY. As the gentleman remembers, that woman had children who she could not afford to send to school. It costs money to send them to school, a modest amount of money by our standards but out of reach for her because she does not make the kind of income that even would allow her children to go to school or have adequate health care.

Is that the point of a free trade agreement?

The United States should and could lead the world by example through a trade policy that improves the lives of individuals and not just adds to the profits of the major corporations. We could and should benefit workers here in the United States and create and sustain jobs that help small- and middle-sized and family-owned businesses grow. And D.R. CAFTA, Dominican Republic CAFTA, is not going to accomplish those goals for us here, for our small companies, for our workers and is simply going to increase this race to the bottom so that, how cheap can we get labor?

I wanted to make a point about, are we really looking for markets in these Central American countries? Do we really believe that we are going to find people who are going to be buying our products? The combined purchasing power of the Central American nations in CAFTA is the same as Columbus, Ohio, or New Haven, Connecticut. The average salary of a Nicaraguan worker is $2,300 a year, $191 a month. Are they going to buy that car that is made in Ohio or in Michigan?

Ms. KAPTUR. Mr. Speaker, very briefly, we had visitors from two nations, El Salvador and Honduras in our community. Some of our church groups brought them in. These were young women workers in some of those textile plants down there. They held up t-shirts that they made for which they received 12 cents, and then we took them to stores in our community. They found the very same t-shirts on the rack, and they were priced at $20. And I remember the expressions on their faces. They could not believe it. And yet those that are brokering in their poverty wages and exacting high prices here, $20 for a t-shirt, are making enormous amounts of money off of this kind of bonded labor and control of our marketplace without proper government intervention.

So I also remember the gentlewoman from Chicago, Illinois (Ms. SCHAKOWSKY) when we were down in Ciudad Juarez, I can remember the tear coming down her cheek when she saw that family living in those packing crates. I can remember that. When it pierces your heart, you never forget it.

Ms. SCHAKOWSKY. Mr. Speaker, I do not want to monopolize this conversation. I do feel so strongly that, as the greatest country on the face of the Earth, the wealthiest country, the country that has the capacity to create jobs, to help people, to lift our own people and people around the world, to help lift them out of poverty, to set a standard that would at least work towards that goal. What a shame that we have before us a trade agreement that, as the gentlewoman said, my sister, the gentlewoman from Ohio (Ms. KAPTUR), just a repeat of NAFTA, and we know the devastating results both here in the United States and in Mexico and in Canada, that it did not do anything for us.

So I just am encouraged actually that we are seeing growing bipartisan opposition to this. Let us go back to the drawing board and come up with a real trade agreement that is going to achieve the goals that we want, that is going to be helpful to us and to our neighbors around the globe and certainly our closest neighbors here in Central America in the Dominican Republic.

Ms. KAPTUR. Mr. Speaker, if I could interject here, the company that the gentlewoman mentioned from Illinois, Galesburg, Maytag. I actually own Maytags. What happened to the workers from the Galesburg plant? Were they transferred? Did they get other jobs? Were they just without work?

Ms. SCHAKOWSKY. Mr. Speaker, you can imagine a fairly mid-sized, kind of small-town community, when a major employer like that leaves town, it does not just impact that business or those workers. It resonates throughout the community in a very negative way, and it is really hard to recover from that.

I want to say, just bringing a Wal-Mart to a community like that so you can buy really cheap products, is that our future in this country? That we will be able to buy imported goods? Flags made in China? T-shirts that are made for 12 cents? And that is not our future if we are going to continue to be a great country. So it hurt Galesburg. It is hurting communities all over our country.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentlewoman from Ohio (Ms. KAPTUR). As we continue this conversation, when I listen to the gentlewomen talk about this, we all talked about the trade deficit, that it went from $38 billion to $620 billion, the trade deficit with Mexico going from a trade surplus to a trade deficit. Those are just numbers, and they make sense but they are just numbers.

When you hear the gentlewoman from Ohio (Ms. KAPTUR) ask about those families in Galesburg, these are not numbers. These are families that lose their job in Lorraine, Ohio, or in Portsmouth, Ohio, or in Chicago or Toledo. They lose their jobs. What it does to their families, often they lose their pensions with some of these companies. The schools have significantly fewer dollars to run. The police and fire departments are understaffed. All the kinds of things that are more likely, alcoholism, all that happens with the families in our country.

Then you talk about those families in, I have seen them in Mexico; I have seen them in Nicaragua; I have seen them several other places; these families that are working, often 8 to 10 hours a day, often 6 days a week making clothes for us.

I was with a family in Nicaragua. They get paid 23 cents for every pair of jeans they sew. The mother gets paid 23 cents for every jeans she sews that end up at Wal-Mart getting sold for between $25 and $30. I was at her home in Tipitapa, a little sprawling bedroom community as you would say in this country, but it is a series of shacks made out of packing materials form the plants they work for.

She was standing in this community home one day. I was talking to her, and she was holding her 3-year-old daughter who had hair down to about her shoulders, jet black hair, except that the bottom inch or two of her hair was sort of discolored. I asked somebody what that was about, and they said, probably this girl does not get enough protein because the parents cannot afford milk. The parents do not buy meat except for very special occasions because she is getting paid 23 cents for every pair of jeans.

So this trading system that these trade agreements bring us bring horrific poverty to the developing world where these people are working harder than maybe any of us, working 60 hours a week, not to mention how hard they have to work at home to do everything, getting to and from work on a bus that takes an hour and a half each way, and all the other things that happen to them.

Then you think of the pain it inflicts on our communities, our schools, our health care system, our police, our fire departments, the safety in our communities, on our families, on our self-respect. All of that.

We can talk numbers, and we can prove our case with these numbers, but all you have to do is look at people at both ends of the trade agreement and where they sit and how their lives go and what we are doing to them. And that is the story in so many ways.

Mr. STRICKLAND. Mr. Speaker, I want to thank the gentleman for yielding to me. It is terrific to have the gentlewoman from Illinois (Ms. SCHAKOWSKY) and my good friend and mentor, the gentlewoman from Ohio (Ms. KAPTUR) here.

I am glad this conversation is headed in the direction here this evening in which I think it is heading because we are moving away from the numbers. We are moving away from the charts, and we are starting to talk about the people. The people whose lives are affected by the decisions that are made by this administration and by those of us who serve in this body. And we hear a lot of

talk today, and I am glad we do, about the need for morality in our government.

I think it is immoral for our government to support policies which benefit the richest people on the face of this Earth, many of them Americans, many of them from other countries that own or operate, manage those large multinational companies. I think there is a moral dimension here.

The gentlewoman from Ohio (Ms. KAPTUR) mentioned some church people who were engaged and involved in this. I think the churches in the United States of America should be concerned about CAFTA. I think they should be concerned about NAFTA. They should be concerned about human exploitation.

Now, many of us in this Chamber belong to different faiths. I happen to be a part of the Christian faith. And Jesus Christ said, As oft as ye have done it unto the least of these, you have done it unto me.

I think we have an obligation, those of us who do embrace faith, to let that faith express itself in the policies that we endorse as individual Members of Congress and also have that impact, the policies that are pursued by this country.

I think it is immoral, quite frankly, for us to enter into an agreement that results in the exploitation of poor Mexicans or poor people from Costa Rica or elsewhere. I think it is immoral for a working mother to be paid 12 cents for a garment that is ultimately sold for $20 or $25. And I ask myself, who is benefiting from such a policy? There is money involved. Someone is getting very rich. And yet it is a form of human exploitation.

So I wish our President and I wish leaders in this House would understand that there is a moral dimension to United States trade policies.

Ms. SCHAKOWSKY. Mr. Speaker, I just want to tell the gentleman that I was visited by a group of religious leaders from CAFTA countries who said exactly what the gentleman said. They said, we know that in many cases our governments are supporting this policy, but we represent the interests of the people in our countries, our parishioners, the people who come to us every Sunday and during the week. And we know they are really suffering, and we know that this trade agreement is just going to be license to further exploit those people and their poverty, not lift them out of the poverty.

And they were asking Members of Congress like myself to consider the people; and that is, the gentleman is right, we have to think about the faces. We have to think about the mothers and the fathers and the little children that suffer because of that and in our country, too, when those jobs are lost in our community.

Mr. STRICKLAND. Mr. Speaker, well, I represent a part of the Appellations region of Ohio. Every time I go home and I think my colleagues here have similar experiences. I talk to people who have lost their jobs. They have in many cases lost their health insurance. They have families. They may be 55, 57, 59 years of age. They have chronic health conditions.

What is happening to us as a country that we would be willing to just tolerate such conditions? It troubles me. It really troubles me. And I do believe, as I said to a reporter yesterday, he said, Congressman, tell me what is wrong with these trade agreements that you seem to be so against? And I said, They leave out the human dimension. They leave out concern for people.

Now, quite frankly, I do not believe Americans are willing to give up our middle class, to lose our standard of living, to participate in the exploitation of poor people around this world simply to get a pair of blue jeans at Wal-Mart for a couple of dollars cheaper than they may be able to get them than if they were made right here in the good old U.S. of A.

I believe the American people have different values than that. I think it is our leaders who need to question their values. I think it is the people who are benefiting, richly benefiting from these agreements, that ought to be called into question and their motives ought to be questioned.

And there is, I think, one word that pretty much summarizes what is the driving force behind NAFTA, behind the WTO, behind permanent trade relations with China and now this so-called CAFTA agreement. And it is greed. It is greed.

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How are we going to increase our own wealth or the wealth of our investors? If that is going to result in poor Mexicans or poor Americans being exploited, then I think our government has an obligation to stand up and speak out, change course. We are on the wrong course. I would say if I could talk with him, Mr. President, we are on the wrong course. We are on the wrong track. We need to reverse. We need to go back. We need to reevaluate the results of NAFTA.

As the gentlewoman from Ohio (Ms. KAPTUR) had said earlier, why in the world, given the results of NAFTA, would we pursue CAFTA? It is almost irrational.

Mr. BROWN of Ohio. Mr. Speaker, as I hear you talk and I think about what has happened with workers around the world, one of the great things about our economy, one of the great things about our country is if you work somewhere, if you work for General Motors or if you work for the local hardware store, if you are a teacher or if you are a nurse, you create value. You create either a profit for your company, wealth for your company. You create value if you are not working for a for-profit company.

Under our system, in part because of labor unions, in part because we have a democratic system, and in part because of our history and our traditions, you share in the wealth you create.

The lesson of these trade agreements you can go anywhere that we have these trade agreements. You can go to Mexico, Nicaragua and China, and you will notice that workers do not share in the wealth they create.

I heard the gentlewoman from Ohio (Ms. KAPTUR) talk about this years ago. The best example was you go to a General Motors plant in Mexico, and it looks just like a General Motors plant in Ohio except it is often newer. The technology is up to date. It is modern. The floors are clean. The workers are working hard. The difference between a Mexican auto plant and the American auto plant, the Mexican auto plant does not have a parking lot because the workers cannot afford to buy the cars they make.

You can go halfway around the world to Malaysia and go to a Motorola plant, and the workers cannot afford to buy the cell phones that they make. You can go back to this hemisphere, to Costa Rica, and go to a Disney plant. The workers cannot afford to buy the Disney toys for their children that they make. You can go back halfway around the world to China and go to a Nike plant, and the workers cannot afford to buy the shoes that they make.

That is what these trade agreements have failed to do. So when a Nike worker in Oregon loses her job and a Nike job in China is created, that means that Nike worker in Oregon is no longer paying into Medicare, no longer paying into Social Security, no longer able to buy Nike, no longer able to buy a car, no longer able to do whatever. So the world has one fewer consumer. The world really is poorer. Nike is a little bit richer, but the world overall is poorer.

In China there is no real wealth created because they are not able to buy anything other than subsistence living and the community in Oregon, in Medford or whatever town, has less wealth.

My definition of successful trade is when the world's poorest workers can buy American products rather than just make products for Americans. Then we will know that our trade policies finally are working.

Once this deadline has expired, the President normally takes 2 months to pass a trade agreement. This one has taken 11.5 months. Republican leadership, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the House, has said that we will vote on it by May 27. That will be roughly 1 year.

We need to go back, as the gentlewoman from Illinois (Ms. SCHAKOWSKY) said, and start again. I want a great trade agreement with Central America because I think we can write one that will lift their workers up so they will want to buy our products as we buy their products. We can do that. We need to start again.

So once the CAFTA countdown, we are at 16 days, something like that

now, once that is past the end of this month, let us just go back to the drawing board and write a CAFTA that, number one, we can be proud of; number two, that will lift up workers in those countries and will help invigorate the middle class in this country. It is very possible to do that. It is just we do not have the will to do it.

Ms. SCHAKOWSKY. Mr. Speaker, if I could, it is bad enough I suppose that usually these workers are paid such low wages, but should those workers try to organize themselves into a union to try and stand up for better working conditions and better wages, we know that in those countries that human rights violations for people who want to form a union are rampant; and the problem with CAFTA is that it really does virtually nothing to protect those workers who want to organize.

We hear in CAFTA, ostensibly it requires enforcement of the local labor laws, both that may exist in the country. Of course, those could change, but even then the penalties are very, very weak. Violations of core labor standards cannot be taken to dispute resolution, and the commitment to enforce domestic labor laws is subject to remedies weaker than those available for commercial dispute.

So every time we put the rights of capital, the rights of intellectual property, the rights of the corporations up here and the rights of workers even to stand up for themselves to try and collectively bargain for better conditions or wages, and it is often at peril of their lives that they do that, not just job loss, but we find in many of those countries that it is very dangerous to be a labor organizer. You can find those people dead.

The other thing is we spend a lot of time around here talking about illegal immigration; and, again, if you think about it in human terms, people do not generally want to leave their homeland. They would prefer to stay there, the place where they are born, where their families live, where their ancestors are, where they have roots. Why do they leave those countries to come to the United States, to risk crossing that river, risk crossing that border? It is because they cannot make a living. They cannot provide any kind of a decent life for their family, and they are willing to do anything to do that and so they come here.

If we want to be able to protect our borders and to have good trade policies, then we have to look at things that will help to lift those workers in other countries so that they can prosper in their homelands.

Ms. KAPTUR. Mr. Speaker, if the gentleman would yield, I want to follow on that point because if one looks just at NAFTA and Mexico, and the inability when we were debating that to include provisions for those that were going to be displaced from their farms in Mexico, what is propelling U.S. immigration is NAFTA because every year now we have over 450,000 individuals from Mexico coming over our border, the vast majority illegal.

You say, well, why would they do that? Because they are in desperate circumstances. Desperation propels them, just as the gentlewoman from Illinois (Ms. SCHAKOWSKY) says. Imagine being willing to die going across the desert in Arizona to get here, a place you do not even know, and what is at the root of it?

The root of it is that their land is no longer productive. The big corporate interests down there buy imported corn, and these people were given no way of transitioning. They had a heartless government, and I think because they did, we might see the first massive historic change in Mexico's elections next year. I hope so, and I want to say to the gentleman from Portsmith, Ohio (Mr. STRICKLAND), when he talked about the churches and the synagogues and the temples and the mosques, they are doing some of the most important work in these trade agreements. They are trying to reach out to people, just like you said, and whether it is fair trade coffee or whether it is quilts or whatever they are buying, they are trying to bring it in and pay people a decent price for whatever that product is and to cut out these middle extortionists, I call them, people in the middle that are trading on that squalor and that exploitation.

Also to say that one of the greatest religious leaders I ever met said ultimately God's judgment would demand not just individual morality for us as persons, but in a rich and powerful Nation like America, justice of us as a Nation. So we are judged not just as persons within our own family, but the kind of society and country we create. We will be judged on many levels; and I think these trade agreements are, as you said, immoral because those who are the least among us are hurt the most.

I think of Norma McFadden from Dixon Ticonderoga in Sandusky, Ohio, who worked there her whole life and was about my age and then was told you get a pink slip, even though the company was profitable, and moved to Mexico. What happened to Norma? What happened to Norma was she could not afford health benefits because under the Federal program, COBRA, it costs about $800 a month. Well, she lost her job. She could not afford the $800 for COBRA. So at 55, 58 years of age, she went back to school to become a phlebotomist to learn how to take blood, and she had to drive to work in her old ramshackle car to try to go to school and ultimately tried to get a job at a hospital as a receptionist and just trying to tread water there in the years when really she should have some peace of mind because she has been a working woman her whole life, she has raised her family.

So, to me, these trade agreements are some of the most anti-life measures that I have ever seen. They hurt people all over our world, surely those in our country who just do not have another leg to stand on; and I think God will judge America very harshly for what we have done because we are in the power position in negotiating these agreements.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from Ohio (Mr. STRICKLAND), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Missouri (Mr. CARNAHAN), and the gentleman from Ohio (Mr. KUCINICH) earlier. I appreciate that human spiritual component.

I would close in an optimistic tone. The gentlewoman from Illinois (Ms. SCHAKOWSKY) talked about what happens with labor unions and human rights in Central America and in South America and in Mexico. Just hold up for a model what happened in Central and Eastern Europe in the last 20 years. The thrust of their equal rights movement came out of the labor movement, and flowing out of that labor movement came a much better way of life, came freedom, better economic security, more wealth for workers, all that we should be striving for. That is why labor standards for these workers in these trade agreements is so important.

As the CAFTA countdown comes, we are down to the last 16 days, it is pretty clear NAFTA will be dead on arrival. It is time at the end of May when we come back in June to start with a new trade agreement that will lift workers up and make us both spiritually and intellectually and in every other way proud of what we do.

ENERGY

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. EHLERS) is recognized for 60 minutes.

Mr. EHLERS. Mr. Speaker, I am pleased to rise tonight with several of my colleagues to discuss an issue of great importance to our Nation, and I know that everyone that gets up here starts the same way, but this is a particularly important issue, one that the three of us wish to discuss as scientists, or those who have a great interest in science.

Tonight's topic is going to be energy. You have heard a lot about energy recently, worried about the gas prices, worried about the energy policy bill that we have worked on in the House and the Senate is now studying. Energy is extremely important, but what is most important to me when we are talking about energy or any other issue is to talk about the long-term effects because that is what the people hire us for. They elect us to come here and discuss and debate the future of this Nation, and it is very easy to forget that because we are always caught up in the instantaneous things we do, the stuff we have to get done today; but the people of this land, struggling

every day to make a living, keep ends together, do not have the time to do the long-range thinking.

Corporate leaders are bound by their requirement to produce profits every quarter, to get the stock price up. It is up to us to really think about where this Nation is going and what is really important and what is likely to happen to it.

So I wish to approach this topic this evening to talk about our energy future, where are we now, what is energy like, what is going to happen in the future; and between the three of us discussing this this evening, I hope that we can enlighten our colleagues and others who are interested in the topic.

Let me begin by an introductory way just talking about energy and the nature of energy.

I happen to be a scientist, a physicist to be more precise; and I have been involved in energy studies for some 30 years, but also because of my background in physics, I have learned a lot about energy, and I would like to tap some of that knowledge to talk about some of the issues and point out some of the characteristics of energy.

First of all, energy is unique. Unique means there is nothing else like it. It is unique in several ways. Energy is our most basic natural resource.

□ 2100

For one simple reason: Without it, we cannot use our other natural resources.

Now, let me give an example of that and to prove my point that energy is our most basic natural resource. If you would like to build something out of iron, suppose it is a car or a can or whatever, the first thing you have to do is dig the iron ore out of the ground. That takes energy. Then you have to transport the ore to the smelting plant and recover the iron out of the ore. Transportation takes energy. Smelting it takes energy. When you are finished with that, you transport it the rolling mill. That takes energy. And you roll it out into sheet steel so it is easier to work with. That takes energy. Then you transport it to the factory. That takes energy. Finally, you fabricate a car or something else out of it, and that takes a lot of energy. Finally, you transport the finished product to the consumer, which once again takes energy.

Notice that every step of the way you were using energy in order to use other natural resources. I could have picked any other natural resource, and the same thing would be true. So energy is our most basic natural resource. You must always remember that. But secondly, and perhaps even more important, energy is a non-recyclable resource. Once you use it, it is gone. Now, if we use up our iron, we could go mine our landfills. We can recover scrap iron, as we do already to a great extent, and we can recycle it over and over and over. There is only so much iron on this planet, but we can keep using it over and over and over, and we are not likely to run out. Its cost may go up, but it is still there.

But when you use energy, it is gone. When you fill your tank with gasoline and you drive it for a week and the tank is empty, the energy is all gone. It is used up. Where does it go? We know energy is conserved, but it can change form. All the energy from the petroleum you put in your car, from the gasoline you use, gets consumed and turned into heat energy, largely unusable heat energy. And eventually, that gets radiated out into space, and it is gone for us forever.

So these two important features define a great deal about energy and how we should treat it and how we should handle it. Finally, because of this, the price of energy affects our economy more than the price of almost any other resource, simply because when the price of energy goes up, that price gets added on to every step of the manufacturing process which I mentioned.

Let me mention some other characteristics of energy. Energy is intangible to most people. To me, as a scientist, it is very tangible. I have worked with energy so long I can almost touch it, feel it, taste it, et cetera. But to the average person, you cannot touch it. You cannot see it, unless it is light energy. You cannot feel it, unless it is heat energy. You cannot smell it, and you cannot taste it. So energy is intangible. To most people, the only tangible aspect of energy is the price at the gas pump or the utility bill at the end of the month.

Because energy is intangible, people tend not to understand it. They do not know how to use it properly. I have a saying I often use, and I even have a tie to match the color I am talking about, I wish energy were purple. Because if energy were purple and people could see it, their behavior would change. When they drive home from the store or from the church and drive up to their house in the middle of winter and see a purple haze oozing through the walls because of poor insulation, or purple rivulets around the windows or doors because they are leaking heat, they would say, Man, that is terrible; I have to insulate this house better. I have to seal up the windows and doors more. Because they do not see it, it is not purple so they cannot see it, they are not aware of this.

If you were driving down the highway and a little Toyota Prius or some other hybrid car goes by, something like the gentleman from Maryland (Mr. BARTLETT) drives, and he may discuss that a little later this evening, and this little Prius goes by, and there is just a little purple around it, because it does not use much energy; but then a Hummer or a large SUV goes by, and there is a purple cloud around it, if people could see it they would say, Hey, I am going to get a Prius or some other hybrid car and use less energy. So I wish energy was purple so it would be tangible to everyone. I think behaviors would change very quickly.

To show the importance of energy, I would like to point out that energy affects civilization in a very direct way because energy represents the ability to do work. That, in fact, is the definition of work in physics. Energy represents the ability to do work.

With the first use of nonhuman energy, in other words using animals to plow the fields and so forth, we had the agricultural revolution beginning. We talk about these big revolutions in the human history, and the agricultural revolution is a large one. There is no contention about that. But the agriculture revolution occurred only after we started using nonhuman energy, because people were not strong enough to really do a good job of pulling plows. Before they had plows that they could pull, people tried agriculture, and it never really succeeded until they discovered they could domesticate oxen or other animals and have them do their work, and then the agriculture revolution succeeded.

The next big step was again related to energy. You have heard of the industrial revolution, where we began using industry to manufacture things and to replace human labor. What did we use? Fossil fuels. Coal first and then oil and eventually natural gas. So the first use of nonanimal energy led to the industrial revolution. Once again, this indicates how important energy is to life on this planet and to civilization and to our economy.

I have drawn here on this chart a model for responsible energy use, trying to relate it to something that everyone understands. When you talk about your money, you go out and get a job because you need to eat, and you would like to have a house and a car. So you get a job, and you earn money. That is income. And most people in this country have to live within their income. That is what everyone aspires to. Sometimes, there are special needs, and you dip into your savings. And some are fortunate enough to inherit some money. So that is the model of individual use of money.

Now, you can look at energy the same way. If you look at the income of energy on our planet, most of it comes from solar energy. We talk a lot about using biomass. That is energy from the sun captured by plants, and we can try to retrieve the solar energy from that. Wind energy. Lots of efforts to build windmills and use wind energy. Once again, that energy comes from the sun because the sun differentially heats the atmosphere and that causes the wind to blow. How about hydropower? Huge dams generating lots of electricity for us. Once again, that is solar energy, because the sun evaporates the water off the oceans and the lakes, gets into the clouds and comes down as rain, collects behind the dams, and we use that energy. Waves are also related to solar energy, because that powers the wind, which generates the waves, and people have tried to extract that energy.

The only one on this list that is income energy but not from the sun is

from the moon, and that is the tidal energy. And efforts have been made to tap that, but it is pretty tough to do and you do not get a lot of energy out of it.

What about the savings? Our savings account are all the fossil fuels; coal, oil and natural gas. Those are stored solar energy. That comes from plants which grew many, many, many, many years ago. Those plants eventually got covered up and over the years decayed and turned into coal, petroleum, natural gas.

Then there is wood, which is also a short-term savings account. Again, it is plant. It really could go up in biomass here, but trees live a long time, so I put it down here in our savings account because, normally, we do not use all that energy in our lifetime.

Finally, our inheritance, that is energy we inherited with this planet. Our universe and our planet were so beautifully created, and there are energy sources within the planet. There may be more than I have listed, but certainly geothermal energy. Heat energy within the earth can be used to drive power plants and already is in certain parts of California and other parts of the world. And nuclear energy. Nuclear energy is so long term, and it is basically there from the creation of the earth, so nuclear energy I would also classify as an inheritance.

Now, I would propose that when we are using energy, we should treat it the same way we do our money; try to live within our income. In other words, try to use as much as we can of the solar energy, lunar energy and so forth. Recognize we have to dip into our savings account, and so we can use the fossil fuels and wood for that, but not to the extent we are using it now so that we use it all up, unless we use that to develop new energy resources for our children and grandchildren.

And, finally, the inheritance. That is a long-term thing, but we do not want to depend totally on it. But certainly, that is there and that is a very promising thing to pursue.

Finally, I hope as a result of the discussion we have tonight that all of us in this Congress and all the people of this country will come to appreciate energy. It is my hope that a better understanding of energy will lead to a wiser use of it by our citizens. And so that is the theme of this hour's discussion we are going to have tonight.

Mr. Speaker, I have been joined by several colleagues, and next I would like to yield to my colleague, the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. I thank the gentleman from Michigan for yielding to me, Mr. Speaker, and I want to thank the gentleman from Michigan for the fascinating discussion mixed with science, history and a little poetry there, I think. Mr. Speaker, I hope many of our constituents across the country are listening to this most important topic.

My colleague, the gentleman from Michigan (Mr. EHLERS), began to speak about energy as not something that you can see or touch, and very few people think about that or think about where energy comes from. It comes from that fuel tank that you lift to fill your car. It comes from someone delivering it to your house. But I would suspect that many Americans and many of our colleagues here in the house feel that energy is a resource that will last forever.

I would like to pose a question tonight to follow on with what my colleague from Michigan was saying, and that is: Is energy infinite? Is energy a bottomless well? And if we look at the bottom of the bottomless well, what do we see?

If we are to have a cohesive energy policy in this country and in this world, in fact, we need to know what that is at the bottomless well, because I happen to think there is no bottom to the resource of energy. But we have to know what that is. What is that resource? What energy source can we rely upon for the unforeseeable future, for generations to come?

The modern world right now is dependent, the industrialized world and the new industrializing world are enormously dependent on an energy source known as fossil fuel. That is coal, natural gas and oil. We also know that the demand is increasing as the supply is diminishing, dramatically. The U.S. oil reserves peaked in 1970.

What is at the bottom of the bottomless well? I think it is initiative. It is ingenuity. It is intellect, and it is logic. Oil, or natural gas, is not at the bottomless well. Oil or natural gas or fossil fuel are finite, and they will not last forever. So we are in a transition period, because the demand is increasing dramatically, and the supply continues to decrease.

□ 2115

The gentleman from Michigan gave us a history lesson about transitions from one energy source to another over a long period of time and showed how our cultures, our industry, our economy, and our cultures have changed. We know that coal in this country some time ago replaced wood and actually saved the forests. Coal was actually more efficient and better for burning or for heating in those earlier years because we stopped burning our forests. Our forests create habitat for wildlife; it is an environmental issue. So coal replaced wood. Oil supplemented coal and oil is more efficient than coal and it is actually cleaner burning. Natural gas supplemented oil. Natural gas is cleaner than oil.

If we looked at it a little bit closer from a chemist's perspective, we would show that there is more hydrogen in coal than there is in wood. There is more hydrogen in oil than in coal. There is more hydrogen in natural gas than there is in oil. So we are moving up the ladder of a better understanding of what sources of energy are important. But all of them are finite. And as our demand increases, our supply diminishes, and we need to begin to rethink our energy sources.

In 1910 if we look at BTUs, British thermal units, if you buy a heater of almost any sort, it will have the number of BTUs that it puts out, the energy output. If we are to measure BTUs from the perspective of how many BTUs the United States uses, what is our energy output, it is measured in quadrillion. If we looked in the year 1910 as an example of BTUs, the United States burned 7 quadrillion BTUs. That is a 1 with 15 zeros. Seven quadrillion BTUs in 1910. If we looked at 1950, we burned 35 quadrillion BTUs. If we looked in the year 2005, it is up to 100 quadrillion BTUs.

The demand is increasing exponentially. In 1970, the year we peaked in our oil, we produced, the United States, 11 million barrels of oil a day. In 2004, we produced 5 million barrels a day. In 2005, we burn roughly 20 million barrels a day of oil. We import about two-thirds of our oil, and that will continue actually to worsen, and we have about 3 percent of the world's oil reserves, or less, and our demand is increasing while our supply is diminishing.

We are actually beginning to see the end of cheap oil in the United States. And burning this resource, burning oil, is not the best use of that resource. We use it, as the gentleman from Michigan said, for a whole range of things, for heating our homes, for air conditioning, for airplanes, for electric lights, for clothing, much of the clothing that we wear, for plastics, for fertilizers, for modern agriculture, for asphalt to maintain our roads. Can you imagine the interstate highway system if we did not have oil to make the asphalt to maintain those many millions of miles? Surgical devices, hip replacement, national defense, all of these things come from oil. It is an integral part of our economy.

Should we really be burning it as fast as we can, as if oil were at the bottom of the bottomless well? Are there other better uses for burning oil? There are. Can we improve our resources here in the United States with something other than fossil fuel? If we continue to rely on fossil fuel, we will never be energy independent and our security will be reduced because most of the oil we import right now comes from areas of the world that are not very stable.

We should begin to seriously think about three things and think of these three things in the way that we use our initiative, our ingenuity, and our intellect to understand what lies at the bottom of the bottomless well. The first thing is fuel efficiency. That is one of the first things we can actually do, tangible things we can do. We have the technology right now to double fuel efficiency. We should start immediately, because it takes about a decade before

you see any results. We could save billions of dollars, reduce our trade deficit, save oil supplies so they last longer. The American Petroleum Institute estimates that we have 25 years of oil left with present demand. That is not with any increase in demand. Is demand going down? Will we burn less than 100 quadrillion BTUs? I do not think so. What will we do about importing the millions of barrels of oil every day? So doubling our efficiency with oil and natural gas will spread these supplies longer and offer us that transition period between a new fuel economy that we desperately need.

The second thing are alternative fuels. The gentleman from Michigan (Mr. EHLERS) and I know the gentleman from Maryland (Mr. BARTLETT) will mention these. There is solar. It is a small piece, but it is a piece. There is wind. It is significant, but it is a small piece of the pie. There are biofuels, a whole range of biofuels from corn to soybeans to poplar trees, to certain grasses, to a range of things that we have already mentioned here tonight; but they are a small piece.

There is hydropower. There is hydrogen which does offer us some hope. It is not a fuel. You can produce it from solar, from wind, from nuclear, from coal. What we have here is a membrane; it excites the molecules and you produce electricity without combustion. But we do not have the technology to mass produce hydrogen to take the place of oil. There is methane from landfills and livestock. There is nuclear power, which is cleaner. The storage of fuel rods is difficult and also, even though it is nuclear, it is a finite source.

We have to start now to make the transition to a new energy source smooth and not disruptive. We must understand the dynamics of this from an economic standpoint, a geopolitical perspective, and cultural life-style.

The third thing is life-style. Our lives, our culture right now, dependent on fossil fuel, our lives are filled with things, things and more things. Look around your home. Where do these things come from? What are they made of? And how do they get delivered to us? The world is dependent on fossil fuel, mainly oil, to make those things, transport those things, and bring them to your home. We import them from all over the world. Oil is related to every aspect of production, distribution, marketing, and consumption of the products you get from megaretailers like Wal-Mart and Sears to McDonald's and Burger King. Our culture.

What will replace oil to keep this kind of economy ever expanding? We talk all the time about a growing economy. How will it expand without oil? We should start talking in terms of a dynamic, sustainable economy without oil. Without oil, our life-styles, in conclusion, our communities, are likely to be smaller and more compact. Our farms are likely to be smaller and more diverse. There will be fewer expanding suburbs wholly dependent upon the automobile. Solar, wind, biofuels can accommodate smaller communities. Nuclear at least for the time will be more significant.

But if we use what is at the bottom of the bottomless well, ingenuity, initiative and intellect, we will have cleaner energy sources, more jobs, drastically reduced trade deficits, more of our own goods will be produced here, a stable economy, more security.

What does the future hold for us? Look deeply at what is or should be at the bottom of the bottomless well. We need the time to transition to this new economy.

Mr. EHLERS. I thank the gentleman from Maryland for his perceptive comments and his poetic, almost philosophical, statements. I appreciate that.

I would just like to add one quick note. When you refer to photovoltaics, I just read an article a week or two ago on this. It is just astounding to me how fast the field has developed in the last few years. Let me just give one quote: We expect that by 2015, photovoltaics will be producing electricity at the cost of 6 cents per kilowatt hour. That is generally less than people are paying for their electricity at their home. And there are no transition costs because you can keep the photovoltaic unit right in your home generating electricity for your home. A friend of mine has built a house which is totally independent of outside energy using photovoltaics and other things. He lives 5 miles from the nearest power line. It works beautifully.

But the very interesting thing is that the prediction is that half of new U.S. electricity generation by 2025 will be produced by photovoltaics, replacing a lot of power plants. I was pleased when I read this. I thought, this fellow really knows what he is talking about. I got to the end and looked at the name. It is Mr. Al Compaan, professor at the University of Toledo and a former student of mine. I did not realize until I reached the end that he was one of my students.

We have approximately 30 minutes, and I have three more speakers so if each of them could limit themselves to 10 minutes or less, I would appreciate it. Next I am pleased to recognize the gentleman from South Carolina (Mr. INGLIS) who was with the Congress for 6 years, term-limited himself, very honorably, and has now returned to us having fulfilled that commitment.

Mr. INGLIS of South Carolina. I thank the gentleman for yielding. I am excited about the work that the gentleman from Michigan (Mr. EHLERS) is doing on the Science Committee and for the innovations that I think that we can together bring about and can encourage from here in the Congress. I am happy to be part of this Special Order to talk about what could be part of our future.

In particular, the aspect that I want to focus on is cars and to have us think about what cars could be in the future. We are bound now by burning petroleum in our cars. We are bound to lethal accidents where people traveling at a high rate of speed end up being killed because cars crash together, blowouts on tires or whatever cause them to have crashes.

What I am excited about is imagining a completely different future, one that has smart cars, has fuels of the future; smart cars that know their position relative to other cars on the road by sensors and by automatic braking systems that take over for the driver, that make it so that a computer is actually driving the car. That for many people sounds like science fiction, but it really is not that far away.

I think it is very interesting that Bill Gates was here recently and spoke with members of the Intellectual Property Caucus and opined that it is not a question of if; it is a question of when we get smart cars. He said in the future, there will be no accidents. Of course, it might not be wise to bet against Bill Gates when it comes to technology issues. While we were waiting, a colleague of ours pointed out that if you had invested $10,000 in a company called Microsoft in 1980, it would be worth $25 million today. So it is not a good idea to bet against Bill Gates when it comes to technology.

What we have, I think, is the opportunity to dream that big, to think of a car totally differently, that it could run itself, that you get in it and it is not so much a steering wheel as it is a computer screen. Unless we think this is far away, think of the blue screen tracker system that is right now deployed in Iraq on the vehicles that we have got over there and so that our men and women know where they are, where their unit is, relative to other units. That is updated every few seconds. The technology, in other words, is not far away. It is on the ground right now in the blue screen tracker system, and it is not far away, in my opinion, for the car.

If you think about what that means, it means compression on the highways. It means that you do not have to have the spacing that we have now, where cars in order to be safe should be driving a fair distance from each other at 60 or 70 miles an hour. As it is, we have got to have a lot of asphalt on the ground to accommodate that many cars traveling at that rate of speed. But if they are smart cars, they can be within relatively few feet of each other, traveling at significant speeds but knowing where one is relative to the other.

That seems like science fiction, but consider this: a number of auto manufacturers, including BMW which makes X5s and Z4s in Spartanburg, South Carolina, are working on braking systems that actually take over the braking decision for the driver. BMW will release a car very soon that does just that. It has a braking system that decides for you when it should apply the brake and keeps you from hitting something.

So if you think about that, the breakthroughs that we are going to get in cars, the compression on the highways, braking systems that make those decisions for you, the ability to get in a car, program it to go somewhere, say from here to Baltimore, take your hands off the wheel, read the newspaper, the productivity gains in the economy are very exciting. There are some very exciting things there now. The key to that is a new energy system, too, one that hopefully will emit only water as you travel, say, from here to Baltimore. That is what the hydrogen economy could promise for us. That is why I am very excited about producing that hydrogen and figuring out how to store it and distribute it. Those are, of course, as I understand it, the three big challenges, producing it, storing it, and distributing it.

Producing it, as one of our colleagues just mentioned, could be in various ways.

□ 2130

Perhaps by concentrating enough energy from the sun, sunlight into a spot to reach temperatures to crack water. And I heard the gentleman from Michigan's (Mr. EHLERS) Special Order a week or so ago about nuclear, and we seem to be of the same opinion that nuclear seems to be one of the more promising ways at this point to crack water. A reactor built for that purpose cannot only generate electricity but can also generate the heat necessary to crack the water. And the beauty, of course, of that is, rather than cracking natural gas, which produces $C0_2$, cracking water would create no $C0_2$, and we would have this wonderful operation that creates electricity plus heat, cracks water, creates hydrogen, and we have got a stable source of fuel.

So production is crucial in envisioning this future that I am talking about here. Second is the ability to store it, to store this hydrogen. A lot of issues there about whether to try to store it in a gaseous state or whether to cool it and try to get it to a liquid state or whether to have some breakthroughs with metal hydrides and determine a way to store it in a solid state. Those are some areas that we need work on, and the gentleman from Michigan can add to that, I think.

And then the third area where we need breakthroughs is how to distribute it, how to set up either pipelines or some other system of distributing this fuel. If we can crack those things, get at producing, storing, and distributing hydrogen, I believe that we are going to be there, not forever away. One of our colleagues who is not so inclined to believe that this is all going to happen once told me, ''Yes, that will work maybe for your grandchildren.'' Well, I think this is going to be here before my grandchildren, and it had better be because, as we have been hearing tonight, we are running out of this stuff called petroleum, and we have got a lot better things to do than burn it. We can make pharmaceuticals. We can make plastics. We can do a lot better things.

Mr. Speaker, I thank the gentleman for giving me the opportunity to share these dreams of the future that may seem like some watching dreamers, but that is how we got to the moon. That is how we get breakthroughs. We have got to be about it and here in the Congress fund it, fund good research on these things, spend good money to create these breakthroughs.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. And I particularly would like to emphasize a couple of things. First of all, many people tend to assume hydrogen is a new source of energy. It is not a source of energy because free hydrogen does not occur in nature. We have to produce it. And highlighting the needs, we have to develop means of production and storage and distribution, which includes transportation to the gas stations. It is going to be a real revolution. I would expect, by 2020, we will see a substantial number of those vehicles on the road. It is going to take a lot of hard work, but it will be worth it because they will be essentially pollution free, and if we produce the hydrogen using nuclear energy or solar energy, something other than petroleum, we will also be contributing to a cleaner atmosphere and get rid of the greenhouse gasses.

So I thank the gentleman very much for his contribution, and I am delighted to have him on the Committee on Science with me.

Mr. Speaker, next I yield to the gentleman from Tennessee (Mr. WAMP) who has Oakridge National Laboratories within his district and is very interested in science and particularly in energy, which is natural because the Oakridge Laboratories is a Department of Energy facility. So I am very anxious to hear what he has to add to the discussion this evening.

Mr. WAMP. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS) for yielding to me.

Let me say how encouraged I am that five senior Republicans would come together tonight to share different perspectives on the need to secure our energy sources in this country and to help bring the American people along to some of the reforms that are necessary, I think, to secure our future in the world and to create more opportunity. I believe that we have done a lot of good things on this side of the aisle, but I think that we have a whole lot left to be done. And before this energy bill gets back from conference, I think we all need to advocate for quite a few changes.

Let me say that energy and economic development are hand in hand. The gentleman from South Carolina invoked the name of Bill Gates. I would submit that the reason that we balanced the budget a few years ago for a few years in a row was not because we cut spending. We did hold the line on spending for like 3 consecutive years and kept the growth of spending below inflation. But it was because we actually led the world in a particular area of our export economy and information technology and we created such a robust U.S. economy that revenues surpassed expenses, and we balanced the budget. And I would challenge the country that the one great area that we can do that again, as we look over the next 10 to 15 years, is in what I call ''entech,'' energy technologies. Because there are so many energy needs around the world as the population explodes, as third-world countries become industrialized, as people are more mobile, and this global economy that we all live and operate in is increasing the demand for energy, the whole world is looking to us for leadership. And it is an export potential in manufacturing that could lead to the most robust U.S. economy that could actually increase revenues so greatly, because we are so productive, and we are solving the world problems. We could balance the budget again. I do not believe, given today's needs, we can cut spending enough to balance the budget because of homeland security, because of entitlement spending. As a matter of fact, if we eliminate all of the nondefense discretionary funding, we still would have a deficit in this current fiscal year. So we have got to grow this economy, and energy technologies are the way to do it.

Energy, as we have heard already, is a source of many of our problems. But I have get got to tell my colleagues, energy is also the source of the solutions to a lot of our problems, and I am looking forward to the development of technologies. And when we look at this continuum, I love the combination of history and knowledge on energy, but think about the next 100 years and think back on the last 100 years. Man has only been flying a little more than 100 years. That ought to blow people's minds that, in less than 100 years, we can go from Kitty Hawk to people routinely being catapulted into space with a hydrogen system, catapult them into space. They stay out there for a period of time. They reenter the earth's atmosphere in a big ball of fire, and then they safely land and walk away. And except for two great tragedies with Challenger and Columbia, this became routine in less than 100 years. Where are we going to be with technology in the next 100 years? Children ought to look forward to their future. The Jetsons, which was a cartoon we watched, could very well be a reality within the next few decades.

Transportation, though, has to be at the forefront of the energy revolution in this country because two-thirds of the petroleum is used in the transportation sector, and as the gentleman

from South Carolina so well articulated, we have got to look for solutions. I am encouraged by the development of hybrid vehicles. It is the bridge to the hydrogen economy as it develops, and right now, there are more and more automotive systems, cars and light trucks, that are moving to hybrid technologies, both foreign and domestic. And next year, the American consumer will have a host of options.

One of the things that I regretted about the energy bill, and I think several of our colleagues here on our side did not vote for the House version, and I believe we will be able to vote for the conference report when it comes back soon, because the House version did not include the tax incentives to stimulate renewables, alternative fuels, did not extend the tax credit for these hybrid vehicles. And, frankly, we have got people waiting in line, and we need to incentivize more of that so that the manufacturers will be encouraged to make them and consumers will be encouraged to buy them, and we did not do enough in that bill. As a matter of fact, here is what folks need to know, because I have met with President Bush recently and listened to him on this issue: When he sent his proposal over here, 72 percent of the tax incentives in his energy plan were for renewables and energy alternatives, and he really wanted to rachet this up. But, by the time the House got through with it, they had lowered that 72 percent to 6 percent and replaced a lot of the renewables and alternative energy sources with oil and gas. And when they asked the President what he thought about that he said, You do not need to incentivize oil and gas; $2.35 a gallon will incentivize oil and gas. They have got incentives. It is called the marketplace. We need to incentivize the alternatives to oil and gas.

And that is really what we are excited about here, and I believe, when the Senate finishes its work, brings this back, the Republicans in Congress and quite a few good Democrats will come together and pass an energy bill that really moves us towards these alternatives.

Let me tell my colleagues that I look to the private sector to see what they are doing because there is some division at DOE as to whether or not hydrogen is safe and if hydrogen is the solution, and there are still some question marks behind it. But GM and Shell, they do not just throw their money away. They are interested in the bottom line. And they now have 40 hydrogen fuel cell vehicles on the road, a permanent hydrogen station in New York City, a permanent hydrogen station here in Washington, D.C., to demonstrate what can be done.

The challenge, we have heard some of the challenges; another challenge is cost. These units cost $400,000 each. We have got to find ways to bring that cost down to a $40,000 or $50,000 each so that it is cost-effective for the American consumers to jump across this bridge to the hydrogen economy.

I have said that I believe our tax code is the best way to encourage and incentivize manufacturers and consumers to move towards these new sources of energy. Our energy independence, though, is a homeland security issue. I co-chair the Renewable Energy Caucus here in the House, and in the last Congress, we got over half the Members. It is very bipartisan; about 60 percent Democrats, 40 percent Republicans. Many of my colleagues here, I think all of them are members of it. It is so important that we do these things, but I also serve on the Homeland Security Subcommittee of the Committee on Appropriations. Our energy security is a top homeland security issue. As a matter of fact, former national security advisers all came together last month and signed a letter to the President of the United States saying that energy security is a crisis and that it is a national security issue and that we need to address it with the highest level of priority. And there are several crises floating around. We are spending a lot of time talking about them. In my view, this energy issue is right at the end of our nose in terms of a crisis. We have got to mobilize quickly so that we can secure our independence. I do not want to be reliant on the Middle East for petroleum for two-thirds of our transportation needs. And the sooner we act, the sooner we are going to be stable and secure. It is a very important national security and homeland security issue.

We talk about natural gas. The prices have spiked so quickly that now we look at photovoltaics. We look at solar panels for home construction, and because of the rise in natural gas prices, they become cost-effective to put them on their house early. They make solar energy panels in Memphis, Tennessee. Sharp Solar does. And in a lot of places that are cold in the winter, now where natural gas has gone to $7, I think, we can actually put in our building materials these energy-efficient technologies. Go to the National Renewable Energy Lab in Colorado and see the breakthroughs. One will be stunned as to how quickly, as the gentleman from Michigan (Mr. EHLERS) has said, these things are advancing. A host of things. Wind power, we are building more and more windmills in the Tennessee Valley. TVA has the green power switch option. More and more consumers are signing up for that. Pay a little more but know that they have got totally renewable energy coming into their home. It is a popular thing. And, frankly, Republicans leading with a national energy policy for the first time since the late 1970s are doing the right thing for the environment.

But that brings me to a problem we have, and that is in the electricity sector, the cleanest, most efficient electricity in this country is nuclear. In France, these people are very environmentally sensitive. They actually get it, and over 70 percent of the electricity in France is provided by nuclear, but they do prototype their design. They eliminate the margin of error, and they do the same thing over and over again. We need to do that here, and we need to go back into the nuclear business. We have the waste stream problems worked out with Yucca Mountain. We need to be bold enough to say, if we are going to secure our energy sources, and the main thing is there is absolutely no emissions with nuclear. We have clean air. We could actually participate in Kyoto if we would replace fossil with nuclear, and we are smart enough to do it. Dadgum, if the French are smart enough to do it, then we are smart enough to do it.

The House Republicans have a strong energy plan. By the time we finish, we are going to do extremely well. We have got several deliverables from renewable energy and energy efficiency, moving to the hydrogen economy, making sure that our electricity grid is reliable, expanding nuclear power and cleaning up the coal technologies in this country. I am proud to serve with these men and advocate for energy security. I believe we are going to actually send that bill to the President and do the right thing, grow the economy and hopefully ultimately have revenues pass expenses again.

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Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, and I appreciate his words about the Jetsons. Both previous speakers mentioned we have to be smart with the smart cars of the future. I would say if we are not smart, we may end up like the Flintstones, instead of the Jetsons. So it is very important for us to do the long-term planning we need to in this body.

Also the gentleman mentioned the document from the Energy Future Coalition, which I also have. National security is a very, very important part of this discussion, and it really irritates me that we are financing our foes in the Middle East by sending all this money over there which they are diverting into instruments of war against us.

With that, I am pleased to recognize our final speaker of the day, another scientist, the gentleman from Maryland (Mr. BARTLETT), who is an expert on what is called ''peak oil.'' In other words, we talked about the finiteness of the oil and natural gas supplies. The gentleman from Maryland (Mr. BARTLETT) is the expert, and he will explain that to us.

Mr. BARTLETT. Mr. Speaker, I really want to thank the gentleman for organizing this hour this evening.

The gentleman from Michigan (Mr. EHLERS) mentioned the energy future, and I have a chart here which looks at the past. If you understand how we have gotten here, why, you may be able to see the future a little better.

The gentleman mentioned the wood, and that is the brown line way down here. Then the gentleman mentioned

coal. We transitioned, and the gentleman from Maryland (Mr. GILCHREST) mentioned that also. We transitioned to coal. You see that we got lots more energy out of coal than we got out of wood.

Then look at the energy that we get out of oil. Of course, as we look to the future, we need to find something that will at least come close to producing the kind of energy that we get from oil.

Our next slide relates to something the gentleman said about energy represents the ability to do work. Here we have a chart which lists the energy density in a variety of things that we get energy from.

To kind of put this in perspective, I would like to note that if we come down here to crude oil, I will give you some idea of the energy density of crude oil, one barrel of crude oil, 42 gallons, represents the energy from 25,000 man-hours of labor. That is about 12 man years of labor. That is the equivalent of having 12 people that work all year for you. And what will it cost you for that? $100 today, about $50 for the barrel of oil and maybe $50 to refine it and distribute it. So that is the kind of energy density that we get from fossil fuel.

Now, we are going to have to find something that comes close that that in the quantities we are using fossil fuels. We are talking about oil and gas. We use in our country 21 million barrels of oil a day. The rest of the world uses 63 million barrels of oil a day. That is 84 million barrels of oil a day total.

If you look here, you will see we did go to higher and higher energy density fuels. As we moved along, you can burn domestic refuge, and we ought to be doing that, by the way, instead of putting it in landfills. We ought to be burning that. Some are doing that. You get heat for the surrounding houses, you get electricity from it.

Brown coal, that is not very good coal. Straw, you can burn bailed straw, that is called biomass. There are lots of things you can do with biomass. In some parts of the world they burn dried dung. That also has lots of energy in it, about the same as wood.

Then we move to black coal, that is what we really mean by coal. You see coal has a higher energy density than wood. And here is coke and ethanol. Notice that ethanol has a lesser energy density than crude oil and diesel and petrol, that is what you put in your car. Naptha has a higher energy density, aviation fuel a still higher energy density, and natural gas, it was mentioned, the hydrogen content goes higher and higher in these so you get more energy out of it.

The gentleman from Michigan (Mr. EHLERS) mentioned the agricultural revolution. We have a chart here that looks at the agricultural revolution. This is a very interesting chart.

The top part of the chart shows how we get energy from petroleum, and it goes from petroleum clear down to gasoline and all of the energy inputs in the stages that are involved in doing that. You have to recover it. Here is the energy input that you need to recover it. You have to transport it. You have got to refine it. You have got to transport it again. And this is what you get from it, 1 million Btus of gasoline at the refueling station. And what did that cost you? It cost 1.23 million Btus. So about a fifth of all the energy you started with in petroleum now is gone in getting this gallon of gasoline.

Well, on the other side here we have now energy from ethanol, from corn. If you go down, we have to farm the corn, we have to produce it, we have to transport it, we have to produce it, we have to transport it again to where you are going to use it, and we still have the 1 million Btus, a little more than a gallon here, by the way, because it does not have the energy density of gasoline. But still we are making the equivalent 1 million Btus. Notice that that took 0.74 million Btus of fossil energy. The difference, of course, was the energy we got from the sun. So here we are capturing energy from the sun to make ethanol.

The bottom of this chart is really very interesting, because this points to a big problem that we face in this country particularly, and in the world in general, as the availability of fossil fuels winds down, because this is the total energy requirement that goes into a bushel of corn.

Notice the kind of energy that goes into that bushel of corn. Nearly half of it is nitrogen. That comes from natural gas. Before we learned how to get it from natural gas, the only place we got it from was barn yard manuers or plants that put it in the soil in rotation farming or guano that we mine from bath caves and tropical islands.

Notice as we go around this pie, the input of oil. Here we have input hauling, that is oil. Water, that was moved probably with energy from fossil fuels. Chemicals, a lot of host chemicals are made from fossil fuels, an enormous petrochemical industry. Custom work. The fellow came in to do custom work, he used some oil. His tractor was made with oil. Natural gas. Electricity. Natural gas goes along with oil. Electricity could have been produced with natural gas or oil. Propane, again, a product of fossil fuels. Gasoline, diesel.

So far, almost everything here is the product of oil or oil itself, is it not? And then we get to some things we mine. We can mine phosphate, lime and potash, but it takes energy to mine those and that energy probably came from oil. So the food you eat in a very real sense is oil, is it not, because that is where the energy came from to produce that food.

Then you have the very interesting chart of income savings and inheritance, and I have a chart here that looks at some of the alternatives. These have been mentioned. We will just spent a couple of moments looking at these alternatives, because we have been talking about it this evening.

We have some finite resources and we need to husband those carefully. We need to use them only as we have to. Some of them will not be very valuable. Tar sands and oil shale may cost you almost as much to get the energy as you get out of the energy after you have gotten it. Coal, and I want to put a coal chart up here in just a moment, because that is a very interesting one. And then nuclear. Several of the speakers have mentioned nuclear this evening.

There are three kinds of ways you can get power from nuclear. Fusion, I hope we get there. If we get there we are home free, are we not? I think the odds of getting there are not all that good, so you better not bank on it, the same way you better not bank on solving your personal economic problems by winning the lottery. That would be nice too, but the odds are not real high that you are going to do it. Then there is the light water reactor, which we have, and then there is the breeder reactor, which we do not have, which we are certainly going to have to look at if we are going to be serious of getting nuclear energy.

Then there is a whole list of renewables here. These are the ones we really need to be focusing on. But the big challenge here is, and I want to put the last chart up, is to move so we can make do with the energy from these alternatives, because it is not going to be as available in as large a quantity or with the energy density of the fossil fuels. So I want to put up the last chart, and that is the chart that shows the things we need to be doing.

These are the kind of things we need to be doing. The first thing we need to be doing is voluntary conservation. Let me put up very quickly the chart that shows California. This is a really interesting one.

It shows that you do not have to depreciate the quality of life to useless energy. Californians use about 60 percent as much energy per person as in the rest of the country. It would be hard to argue they do not have a good lifestyle.

Let me put this down and look at the next one. The next thing we need to do, we need to organize voluntary conservation. If we can organize, we can do a little better job. Then this is with the government cuts in now. We need to have monetary incentives, some policies for volunteer conservation. We have to conserve to buy time so we can use the fossil fuels remaining, not only total fuel our present economy, to make the investment we need to make in these renewables so we will be able to sustain ourselves for the duration.

Then we need to go to efficiency. We have done a lot with efficiency. Your present refrigerator is at least twice as good as the one 20 years ago in terms of efficiency. Then again the government is involved, we need to have monetary incentives and policies for efficient technologies.

I would say to the gentleman from Michigan (Mr. EHLERS), we should have

been moving down this path for the last 25 years, because in 1980 we knew absolutely moving down Hubbard's Peak. Tomorrow I think we have another opportunity in one of these special order hours to talk about this. We will be able to do this in more detail. I thank the gentleman for yielding to me and for organizing this hour this evening.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman from Maryland. The gentleman has given an excellent presentation. Unfortunately, we do not have time to go into details, but as the gentleman mentioned, I believe we have other time next week when we can do that. I look forward to hearing more from the gentleman about his field of expertise.

Mr. Speaker, I would also enter into the record a letter from the Energy Future Coalition which was sent to President George W. Bush along with some attached material which I think is very important for our colleagues to peruse and it will certainly be of interest to other people in this Nation.

I want to thank the four gentlemen who joined me here this evening, all of them are experts in different areas relating to energy. They have done an excellent job of presenting things, and I hope this clarifies the energy situation and sheds some light on our efforts to ensure that we advance energy efficiency, advance energy conservation, advance development of new sources of energy, and, in particular, in terms of the chart I used, let us get away from using our savings; let us get on to using our income and some of our inheritance so that we have a balanced economy in the future and a safer Nation.

'SET AMERICA FREE' A BLUEPRINT FOR U.S. ENERGY SECURITY

INTRODUCTION

Historically, the United States has pursued a three-pronged strategy for minimizing the vulnerabilities associated with its dependency on oil from unstable and/or hostile nations: diversifying sources of oil, managing inventory in a strategic petroleum reserve and increasing the efficiency of the transportation sector's energy consumption. In recent years, the focus has been principally on finding new and larger sources of petroleum globally.

Rapidly growing worldwide demand for oil, however, has had the effect of largely neutralizing this initiative, depleting existing reserves faster than new, economically exploitable deposits are being brought on line. Under these circumstances, diversification among such sources is but a stop-gap solution that can, at best, have temporary effect on oil supply and, hence, on national security. Conservation can help, but with oil consumption expected to grow by 60 percent over the next 25 years, conservation alone will not be a sufficient solution.

THE 'SET AMERICA FREE' PROJECT

Long-term security and economic prosperity requires the creation of a fourth pillar—technological transportation of the transportation sector through what might be called ''fuel choice.'' By leading a multinational effort rooted in the following principles, the United States can immediately begin to introduce a global economy based on next-generation fuels and vehicles that can utilize them:

Fuel diversification: Today, consumers can choose among various octanes of gasoline, which accounts for 45 percent of U.S. oil consumption, or diesel, which accounts for almost another fifth. To these choices can and should promptly be added other fuels that are domestically produced, where possible from waste products, and that are clean and affordable.

Real world solutions: We have no time to wait for commercialization of immature technologies. The United States should implement technologies that exist today and are ready for widespread use.

Using existing infrastructure: The focus should be on utilizing competitive technologies that do not require prohibitive or, if possible, even significant investment in changing our transportation sector's infrastructure. Instead, ''fuel choice'' should permit the maximum possible use of the existing refueling and automotive infrastructure.

Domestic resource utilization: The United States is no longer rich in oil or natural gas. It has, however, a wealth of other energy sources from which transportation fuel can be safely, affordably and cleanly generated. Among them: hundreds of years worth of coal reserves, 25 percent of the world's total (especially promising with Integrated Gasification and Combined Cycle technologies); billions of tons a year of biomass, and further billions of tons of agricultural and municipal waste. Vehicles that meet consumer needs (e.g., ''plug-in'' hybrids), can also tap America's electrical grid to supply energy for transportation, making more efficient use of such clean sources of electricity as solar, wind, geothermal, hydroelectric and nuclear power.

Environmentally sensible choices: The technologies adopted should improve public safety and respond to the public's environmental land health concerns.

KEY ELEMENTS OF THE 'SET AMERICA FREE' PROJECT

Vehicles

Hybrid electric vehicles: There are already thousands of vehicles on America's roads that combine hybrid engines powered in an integrated fashion by liquid fuel-powered motors and battery-powered ones. Such vehicles increase gas-consumption efficiency by 30-40 percent.

Ultralight materials: At least two-thirds of fuel use by a typical consumer vehicle is caused by its weight. Thanks to advances in both metals and plastics, ultralight vehicles can be affordably manufactured with today's technologies and can roughly halve fuel consumption without compromising safety, performance or cost effectiveness.

''Plug-in'' hybrid electric vehicles: Plug-in hybrid electric vehicles are also powered by a combination of electricity and liquid fuel. Unlike standard hybrids, however, plug-ins draw charge not only from the engine and captured braking energy, but also directly from the electrical grid by being plugged into standard electric outlets when not in use. Plug-in hybrids have liquid fuel tanks and internal combustion engines, so they do not face the range limitation posed by electric-only cars. Since fifty-percent of cars on the road in the United States are driven 20 miles a day or less, a plug-in with a 20-mile range battery would reduce fuel consumption by, on average, 85 percent. Plug-in hybrid electric vehicles can reach fuel economy levels of 100 miles per gallon of gasoline consumed.

Flexible fuel vehicles (FFVs): FFVs are designed to burn on alcohol, gasoline, or any mixture of the two. About four million FFV's have been manufactured since 1996. The only difference between a conventional car and a flexible fuel vehicle is that the latter is equipped with a different control chip and some different fittings in the fuel line to accommodate the characteristics of alcohol. The marginal additional cost associated with such FFV-associated changes is currently under $100 per vehicle. That cost would be reduced further as volume of FFVs increases, particularly if flexible fuel designs were to become the industry standard.

Flexible fuel/plug-in hybrid electric vehicles: If the two technologies are combined, such vehicles can be powered by blends of alcohol fuels, gasoline, and electricity. If a plug-in vehicle is also a FFV fueled with 80 percent alcohol and 20 percent gasoline, fuel economy could reach 500 miles per gallon of gasoline.

If by 2025, all cars on the road are hybrids and half are plug-in hybrid vehicles, U.S. oil imports would drop by 8 million barrels per day (mbd). Today, the United states imports 10 mbd and it is projected to import almost 20 mbd by 2025. If all of these cars were also flexible fuel vehicles, U.S. oil imports would drop by as much as 12 mbd.

Fuels

Fuel additives: Fuel additives can enhance combustion efficiency by up to 25 percent. They can be blended into gasoline, diesel and bunker fuel.

Electricity as a fuel: Less than 2 percent of U.S. electricity is generated from oil, so using electricity as a transportation fuel would greatly reduce dependence on imported petroleum. Plug-in hybrid vehicles would be charged at night in home garages—a time-interval during which electric utilities have significant excess capacity. The Electric Power Research Institute estimates that up to 30 percent of market penetration for plug-in hybrid electric vehicles with 20-mile electric range can be achieved without a need to install additional electricity-generating capacity.

Alcohol fuels: ethanol, methanol and other blends:

Ethanol (also known as grain alcohol) is currently produced in the U.S. from corn. The industry currently has a capacity of 3.3 billion gallons a year and has increased on the average of 25 percent per year over the past three years. Upping production would be achieved by continuing to advance the corn-based ethanol industry and by commercializing the production of ethanol from biomass waste and dedicated energy crops. P-Series fuel (approved by the Department of Energy in 1999) is a more energy-efficient blend of ethanol, natural gas liquids and ether made from biomass waste.

Methanol (also known as wood alcohol) is today for the most part produced from natural gas. Expanding domestic production can be achieved by producing methanol from coal, a resource with which the U.S. is abundantly endowed. The commercial feasibility of coal-to-methanol technology was demonstrated as part of the DOE's ''clean coal'' technology effort. Currently, methanol is being cleanly produced from coal for under 50 cents a gallon.

It only costs about $60,000 to add a fuel pump that serves one of the above fuels to an existing refueling station.

Non-oil based diesel: Biodiesel is commercially produced from soybean and other vegetable oils. Diesel can also be made from waste products such as tires and animal by-products, and is currently commercially produced from turkey offal. Diesel is also commercially produced from coal.

Policy Recommendations

Provide incentives to auto manufacturers to produce and consumers to purchase, hybrid vehicles, plug-in hybrid electric vehicles and FFVs across all vehicle models.

Provide incentives for auto manufacturers to increase fuel efficiency of existing, non-FFV auto models.

Conduct extensive testing of next-generation fuels across the vehicle spectrum to meet auto warranty and EPA emission standards.

Mandate substantial incorporation of plug-ins and FFVs into federal, state, municipal and covered fleets.

Provide investment tax incentives for corporate fleets and taxi fleets to switch to plug-ins, hybrids and FFVs.

Encourage gasoline distributors to blend combustion enhancers into the fuel.

Provide incentives for existing fueling stations to install pumps that serve all liquid fuels that can be used in the existing transportation infrastructure, and mandate that all new gas stations be so equipped.

Provide incentives to enable new players, such as utilities, to enter the transportation fuel market, and for the development of environmentally sound exploitation of non-traditional petroleum deposits from stable areas (such as Canadian tar sands).

Provide incentives for the construction of plants that generate liquid transportation fuels from domestic energy resources, particularly from waste, that can be used in the existing infrastructure.

Allocate funds for commercial scale demonstration plants that produce next-generation transportation fuels, particularly from waste products.

Implement federal, state, and local policies to encourage mass transit and reduce vehicle-miles traveled.

Work with other oil-consuming countries towards distribution of the above-mentioned technologies and overall reduction of reliance on petroleum, particularly from hostile and potentially unstable regions of the world.

A NEW NATIONAL PROJECT

In 1942, President Roosevelt launched the Manhattan Project to build an atomic weapon to be ready by 1945 because of threats to America and to explore the future of nuclear fission. The cost in today's prices was $20 billion. The outcome was an end to the war with Japan, and the beginning of a wide new array of nuclear-based technologies in energy, medical treatment, and other fields.

In 1962, President Kennedy launched the Man to the Moon Project to be achieved by 1969 because of mounting threats to U.S. and international security posed by Soviet space-dominance and to explore outer space. The cost of the Apollo program in today's prices would be well over $100 billion. The outcome was an extraordinary strategic and technological success for the United States. It engendered a wide array of spin-offs that improved virtually every aspect of modern life, including but not limited to transportation, communications, health care, medical treatment, food production and other fields.

The security of the United States, and the world, is no less threatened by oil supply disruptions, price instabilities and shortages. It is imperative that America provide needed leadership by immediately beginning to dramatically reduce its dependence on imported oil. This can be done by embracing the concepts outlined above with a focus on fuel choice, combined with concerted efforts at improving energy efficiency and the increased availability of energy from renewable sources.

The estimated cost of the ''Set America Free'' plan over the next 4 years is $12 billion. This would be applied in the following way: $2 billion for automotive manufacturers to cover one-half the costs of building FFV-capability into their new production cars (i.e., roughly 40 million cars at $50 per unit); $1 billion to pay for at least one of every four existing gas stations to add at least one pump to supply alcohol fuels (an estimated incentive of $20,000 per pump, new pumps costing approximately $60,000 per unit); $2 billion in consumer tax incentives to procure hybrid cars; $2 billion for automotive manufacturers to commercialize plug-in hybrid electric vehicles; $3 billion to construct commercial-scale demonstration plants to produce non-petroleum based liquid fuels (utilizing public-private cost-sharing partnerships to build roughly 25 plants in order to demonstrate the feasibility of various approaches to perform efficiently at full-scale production); and $2 billion to continue work on commercializing fuel cell technology.

Since no major, new scientific advances are necessary to launch this program, such funds can be applied towards increasing the efficiencies of the involved processes. The resulting return-on-investment—in terms of enhanced energy and national security, economic growth, quality of life and environmental protection—should more than pay for the seed money required.

Gary L. Bauer, President, American Values.

Milton Copulos, National Defense Council Foundation.

Congressman Eliot Engel.

Frank Gaffney, Center for Security Policy.

Bracken Hendricks, Apollo Alliance.

Col. (ret.) Bill Holmberg, American Council on Renewable Energy.

Anne Korin, Institute for the Analysis of Global Security.

Deron Lovaas, Natural Resources Defense Council.

Gal Luft, Institute for the Analysis of Global Security.

Cliff May, Foundation for the Defense of Democracies.

Hon. Robert C. McFarlane, Former National Security Advisor.

Daniel Pipes, Middle East Forum.

Professor Richard E. Smalley, 1996 Nobel Laureate in Chemistry.

Admiral James D. Watkins, Former U.S. Secretary of Energy.

Hon. R. James Woolsey, Former director of the CIA, Co-Chairman, Committee on the Present Danger.

Meyrav Wurmser, Hudson Institute.

ENERGY FUTURE COALITION
Washington, DC, March 24, 2005.

Hon. GEORGE W. BUSH, President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As individuals with a deep commitment to our nation's security and well-being, we share our overriding concern for the protection of the United States. That is why we have come together to urge you and your Administration to focus anew on a matter that directly affects our national security: America's growing dependence on foreign oil.

We believe that: The United States' dependence on imported petroleum poses a risk to our homeland security and economic well-being. Increasing petroleum consumption by developing economies like China and India will exacerbate this risk. Some foreign interests have used oil revenues in ways that harm our national security. With only two percent of the world's oil reserves but 25 percent of current world consumption, the United States cannot eliminate its need for imports through increased domestic production along. An equivalent emphasis on demand-side measures—development and deployment of clean, domestic petroleum substitutes and increased efficiency in our transport system—is essential.

You have recognized the threat. As you said on the South Lawn on February 25, 2002, dependence on foreign oil ''is a challenge to our economic security, because dependence can lead to price shocks and fuel shortages. And this dependence on foreign oil is a matter of national security. To put it bluntly, sometimes we rely upon energy sources from countries that don't particularly like us.''

Mr. President, we agree. We are writing today to urge that the United States respond—as it has so ably to other national security challenges—with a focused, determined effort that accepts nothing less than success. To reduce the risk of an oil shock in a global market, we must reduce our use of foreign oil. We ask that you launch a major new initiative to curtail U.S. consumption through improved efficiency and the rapid development and deployment of advanced biomass, alcohol and other available petroleum fuel alternatives.

Most importantly, we believe that, to demonstrate our seriousness and resolve, this effort must be funded at a level proportionate with other priorities for our nation's defense. An investment of no more than $1 billion over the next five years, for example, would establish a domestic alternative fuels industry that could significantly reduce our consumption of foreign oil.

We do not know today what form a crisis over oil will take, but we know that a crisis is coming—one that could harm the United States. Action to prepare for that day will pay dividends for our national security, out international competitiveness, and our future prosperity. We respectfully urge that you call on the Congress to join you in supporting the funding and other strong measures needed to reduce our dependence on foreign oil, such as those set out in our enclosed Findings and Recommendations. As Sun Tzu wrote, ''The art of war teaches us to rely not on the likelihood of the enemy's not coming, but on our own readiness to receive him.''

Sincerely,

ROBERT C. MCFARLENE,
R. JAMES WOOLSEY,
FRANK J. GAFFNEY, Jr.,
C. BOYDEN GRAY,
TIMOTHY E. WIRTH.

Additional Signatories

Lt. Gen. John S. Caldwell, Jr., USA (Ret.).

Milton R. Copulos, National Defense Council Foundation.

Adm. William T. Crowe, Jr., USN (Ret.); former Chairman of the Joint Chiefs of Staff.

Hon. John H. Dalton, Former Secretary of the Navy.

Vice Adm. Robert F. Dunn, USN (Ret.).

Brig. Gen. Gordon Gayle, USMC (Ret.).

Hon. Sherri W. Goodman, Former Deputy Under Secretary of Defense.

Vice Adm. Lee Gunn, USN (Ret.); Institute for Public Research, Center for Naval Analysis.

David A. Harris, American Jewish Committee.

Hon. Gary Hart, Former U.S. Senator; Co-Chair, U.S. Commission on National Security for the 21st Century.

Rear Adm. Leland S. Kollmorgen, USN (Ret.).

Gen. Richard L. Lawson, USAF (Ret.); former President, National Mining Association.

Gal Luft, Institute for the Analysis of Global Security.

Lt. Gen. William R. Maloney, USMC (Ret.).

Clifford D. May, Foundation for the Defense of Democracies.

Vice Adm. Dennis V. McGinn, USN (Ret.).

Hon. William A. Nitze, The Gemstar Group.

John L. Peterson, The Arlington Institute.

Hon. Robert B. Pirie, Jr., Former Secretary of the Navy (acting).

Hon. John D. Podesta, Center for American Progress; former White House Chief of Staff.

The Hon. David Oliver, Jr., Former Principal Deputy Under Secretary of Defense for Acquisition, Technology and Logistics.

Hon. Joe R. Reeder, Former Under Secretary of the Army.

Maj. Gen. J. Milnor Roberts, USAR (Ret.).

Vice Adm. Richard H. Truly, USN (Ret.); former Director of the National Renewable Energy Laboratory.

Adm. James D. Watkins, USN (Ret.); former Secretary of Energy.

ENERGY FUTURE COALITION

THE NATIONAL SECURITY AND PETROLEUM DEPENDENCE PROJECT

Findings and Recommendations

Findings: U.S. dependence on foreign petroleum poses a serious risk to our national and homeland security as well as our economic well-being; Increasing petroleum consumption by developing economies like China and India will exacerbate this risk; Some foreign interests have used oil revenues to purchase destabilizing weapons or to support terrorism; With just 2 percent of the world's oil reserves and 25 percent of current world consumption, the U.S. cannot eliminate its need for imports through increased domestic production alone; equivalent demand-side measures are essential; Technologies exist today that can improve efficiency and produce clean, domestic petroleum substitutes; The cost of action is far smaller than the risk of inaction, and there is no excuse for further delay.

Recommendation:

1. It should be a top national security priority of the United States to significantly reduce its consumption of foreign oil through improved efficiency and the rapid substitution of advanced biomass, alcohol and other available alternative fuels, and this effort should be funded at a level proportionate with other priorities for the defense of the nation.

2. In addition to research and development, such investments should include tax credits and other incentives to encourage: (a.) Rapid production and consumer purchase of advanced vehicles like hybrids, plug-in hybrids and flexible fuel vehicles; (b.) Production of more efficient vehicles across all models; (c.) Construction of domestic facilities to produce alternative fuels from domestic resources; and (d.) Wide deployment of alternative liquid fuel options at existing fueling stations.

3. The Federal Government should consider mandating substantial incorporation of hybrids, plug-in hybrids and flexible fuel vehicles into federal, state, municipal and other government fleets.

PAYING TRIBUTE TO NATIONAL LAW ENFORCEMENT OFFICERS AND FIRST RESPONDERS

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. STUPAK) is recognized for 60 minutes.

Mr. STUPAK. Mr. Speaker, I thank you for the opportunity to say a few words tonight. I would like to change the subject from energy to the energy we see day in and day out on our Nation's streets, towns and communities and homes, and that is that this week is National Law Enforcement Week. I rise to pay tribute to our law enforcement officers and first responders who have so bravely protected and served our Nation, often putting their own lives at risk.

Since September 11, 2001, many in this Nation and this Congress have come to recognize the importance of the sacrifices made by men and women in law enforcement. As a former police officer with the Michigan State Police and the Escanaba City Police Department, as well as the founder and co-chair of the Law Enforcement Caucus, this week has special meaning to me.

The focus of this week will take place Friday evening, when 153 law enforcement officers killed in the line of duty in 2040 as well as 262 other officers killed in prior years will be formally added to the Peace Officers Memorial at the 2005 National Candlelight Vigil at the National Law Enforcement Memorial here in Washington, D.C.

The addition of these officers' names to the memorial is one way in which our Nation can commemorate its fallen heroes who have died in the line of duty. This week allows law enforcement officers and their families to gather together in one place and honor those who have lost their lives.

According to the National Law Enforcement Officers Memorial Fund, more than 16,656 Federal, State and local law enforcement men and women in the United States have been killed in the line of duty through 2004. In 2004, of the 153 fallen officers, sadly seven of these officers are from my home State of Michigan.

That is why it is especially important during this special week that we not only recognize the dedication of these officers, but also commit to providing our law enforcement officers with the resources they need to meet the daily challenges of their jobs, particularly at a time when we place greater demands on them to fight and prevent terrorism here all across America.

We can provide these resources only by fully funding important law enforcement grant programs that allow our local agencies to buy essential protective gear, hire the officers they need and obtain all the resources they need to make themselves and our communities safe.

Congress can provide these resources through grants, especially through the Community Oriented Police Services, or COPS Program, as we know it. This COPS Program was so successful that it helped to put 100,000 police officers on the street under President Clinton. It is critical that Congress continue to fully fund this program.

□ 2200

Unfortunately, the President's budget, which we really just recently passed, devastates the COPS program, requesting only $117.8 million for this important program. That is $381.2 million below last year's level. That is more than almost a 200, 300 percent cut in this program. The President's budget also zeroes out the Edward Byrne Memorial Justice Assistance grant program that provides funding for 19 different programs for counterdrug initiatives in rural communities for funding our jails, and 19 different programs to allow local law enforcement to do what is necessary in their communities to best serve and protect their people. These grants are used to administer, as I said, vital programs such as multi-jurisdictional drug enforcement teams, anti-drug education programs, treatment programs, staffing our jails, running investigative bureaus, and also all the way to alternative sentencing initiatives.

If enacted, the President's budget cuts will have far-reaching effects on our local law enforcement communities. Local drug enforcement teams are crucial to keeping our communities drug-free. If the Byrne grant programs are zeroed out, as they are required to be underneath our budget, they will be unable to hire officers needed to sustain their drug enforcement teams.

Let me tell my colleagues, when it comes to drug abuse, no community, urban or rural, is immune from this problem. To highlight how important these local teams are to our rural districts, there is a recent article in our local newspapers in my first congressional district of Michigan. On April 13, HUNT, or also known as the Huron Undercover Narcotics Teams seized 3,000 Oxycontin tablets from a home in the rural part of Presque Isle. This is just one example of the critical work these narcotic teams do day in and day out to keep drugs out of our communities and our schools.

This country's drug problems are not going to go away with this one bust. In fact, with the emergence of prescription drugs used and dealt illegally like Oxycontin, some would argue the problem is only getting worse. My question is, why are we zeroing out the funding that enables programs like HUNT, the Huron Undercover Narcotics Team, to exist and combat this problem that is only growing more severe.

Congress also needs to provide assistance to help regional law enforcement officers and first responders talk to each other in a time of emergency. It is called interoperability. My bill, H.R. 3370, the Public Safety Interoperability Act, would provide grants to local law enforcement agencies to modernize their communications systems and become interoperable. Interoperability of an officer's communications system would allow different police agencies in different jurisdictions to communicate with each other in time of crisis.

Currently, firefighters and law enforcement officials may not be able to talk to each other, even if they work in the same jurisdiction. The tragic events of September 11 only illustrates and highlights why it is so important that our law enforcement officials are fully able to talk to each other via interoperability. Mr. Speaker, 343 firefighters and 72 law enforcement officers lost their lives in the World Trade Center on September 11, and 121 of the brave firefighters lost their lives due to the fact that they were unable to talk

to each other. No one could tell them to get out of the building.

When our first responders are confronted with an emergency situation, it is absolutely necessary that they are able to communicate with each other so they can fully assess the situation and how best to handle it. These are the kinds of resources and tools our first responders need. We need to do everything possible to ensure that our law enforcement officers that play an integral role in our Nation's antiterrorism efforts are fully interoperable and able to talk to each other, whether it is State, Federal, or local law enforcement, or first responders. Without interoperability, our public safety agencies face the challenge of being able to talk to each other when the emergency crisis strikes.

My State of Michigan is one of the leaders in its mission to build a communications network that allows its entire local and State public safety agencies the ability to talk with one another by radio, regardless of agency or jurisdiction. The network has right now 400 local and State agencies on it, but there are another 1,300 agencies that need to get on the network, and the main obstacle in reaching this goal is being able to get on the same network and talk to each other via the spectrum they need and the funding they need, which is why we have heard from national police and public safety organizations about the funding levels. If we tried to fund the whole Nation, it would cost about $10 billion, and that is what is needed to make this Nation's first responders interoperable or being able to talk to each other, regardless of the jurisdiction or agency they work for. But so far, it appears that only about $800 million in Federal grants have been provided for interoperability. Of this $800 million, we are not sure where the money all went to. In fact, how was it used? Was it used to buy radios? Were those radios able to talk to each other? Was it to upgrade systems, or was it just to study the problem? These are the questions we have asked on this floor of this House, because there is nothing more important to anyone in law enforcement than to be able to talk to each other to tell the situation they are in and ask for assistance if they so need it.

In fact, the independent 9/11 Commission actually held hearings in part to examine the communication gaps that actually occurred between law enforcement officers and public safety agencies and first responders during their response to the attack on the World Trade Center. What the Commission learned firsthand was that fire chiefs in the building lobbies, in the lobbies of the World Trade Center, knew little of the conditions upstairs, did not hear anything about what police officers and helicopters were seeing as they circled the World Trade Center. Earlier, Federal reports on the 9/11 emergency response concluded that the inability of these first responders to talk to each other, these first responders from different agencies to talk to one another was a key factor in the death, as I said earlier, of at least 121 firefighters. No one could tell them it was time to get out of the buildings, as it may fall upon them.

Since then, the Federal Government has called upon our States and local law enforcement officers and first responders to be even more vigilant and be prepared for possible attacks on terrorism, yet our public safety agencies continue to lack the ability to communicate with each other, between agencies and between jurisdictions. Firefighters cannot talk to police, local police cannot talk to State police, and so on and so on.

Despite the creation of the Department of Homeland Security and grant programs for first responders, program funding for modernizing their communications systems has fallen far short of the billions of dollars we need to make our Nation's public safety agencies interoperable. As I said earlier, approximately $800 million has been devoted to local public safety communications systems but, then, in 2004, no funding was provided at all. Again, even in the 2005 appropriations bill, not one dime went specifically to grants of interoperability. Why is it that we are always talking about the priority to make our communications system interoperable so we can talk to each other, but we are not providing the resources to get the job done?

Another question: Congress has provided more than $4.4 billion in first responder grants and to the States, but it appears no one knows how much of this grant money has been used for communications. I even asked my home State of Michigan. They have received some $120 million in the State formula Department of Homeland Security grants, but no one could tell me or my staff how much has been spent on communications systems and communications systems that were interoperable.

The bottom line is there is a lot of talk around here about interoperability, but no real reliable resources to help make this happen so agencies can talk to each other in times of disaster or, heaven help us, a terrorist attack.

As I said earlier, I have a bill that would help address this urgent need, and our bill, and it is a bipartisan bill, the Public Safety Interoperability Implementation Act, sets up a public safety communications trust fund in the U.S. Treasury to expeditiously move our Nation's public safety agencies into the modern day state of communications. In the short term, the trust fund will be funded by a three-year grant program funded through the traditional appropriations cycle providing up to $500 million a year in interoperability grants. The key is it has to be interoperability grants, to make your communications system in your jurisdiction so everyone, first responders, firefighters, paramedics, police officers can all talk to each other. In the long term, we provide a short-term and also a long-term solution; the funding for the trust fund will come from the sales of the spectrum conducted by the Federal Communications Commission. This bill dedicates 50 percent of the net revenue from future spectrum auctions to the trust fund. By dedicating funds from the sale of the spectrum, we would ensure that funding will be set aside no matter what happens in the annual appropriations process.

In a few weeks we expect a bill to come out of our Committee on Energy and Commerce for the sale of spectrum to move our televisions from the analogue system to more of a high-definition television, so we have to go to a different spectrum. That 800 megahertz spectrum is to be set aside for law enforcement. But then, they need the resources, law enforcement needs the resources to be able to put in the modern communications systems so they can all talk to each other. Whether you are in the upper or lower peninsula of Michigan, whether you are in Maryland or Washington, D.C., or Virginia, these jurisdictions, these first responders in these areas should be able to talk to each other.

Today we had an evacuation of the Capitol building and the office buildings here. I really wonder, could the Capitol Police talk to the Metropolitan Police? Could Metropolitan Police talk to subway police, could they talk to the Park Police, could they talk to the emergency people, could they talk to the ambulance drivers, could they talk to the fire department. They all responded, but could they talk to each other and communicate with each other to direct the resources, the manpower, the personnel we needed at the right time if it would have been a serious attack or threat here in our Nation's capital. I know in the Nation's capital from previous testimony, they have spent over $300 million on interoperability in the Washington, D.C. area. I also know that it is not fully operational and not all jurisdictions talk to each other. So we have some work to do. There is new technology out there now which will bring down the cost of interoperability, but we have to put forth the resources to bring this together.

It is clear, local agencies and the States cannot afford to do this on their own. It is clear specific funding will not be set aside in our current appropriations bill for this priority. It is time that we provide our first responders with the tools they need to do the job the Federal Government has called upon them to do, especially now during National Law Enforcement Week.

Mr. Speaker, when we talk about it, firefighters and law enforcement officials may not be able to communicate with each other even if they work in the same jurisdiction. As I said, the tragic events of September 11 certainly indicated why this is so important. We talk about the events of September 11

or the 150 some law enforcement officers who will be placed on the memorial wall who died here in the past year, and we need to do everything we can to ensure programs like the Thin Blue Line are fully funded.

The Thin Blue Line is a nonprofit, volunteer organization that assists and supports the families of injured or deceased officers of law enforcement agencies. Thin Blue Line began in Michigan and is now expanding throughout this Nation. Thin Blue Line volunteers assist families with applying for benefits, counseling, and answering their questions during the most difficult of circumstances. These officers have made the ultimate sacrifice in the line of duty, and their families deserve to be honored, respected, and supported in any way we can.

I am hopeful that we can continue as a Nation, as a Congress, and as citizens of this great Nation to show our commitment to law enforcement by supporting important funding needs, including showing our full support for the National Law Enforcement Officers Memorial. It is the least we can do for those individuals who put their life on the line each and every day.

Mr. Speaker, I want to dedicate this time to law enforcement officers and Law Enforcement Week. As I said, Sunday night, they will be putting the names of the officers who have fallen, 153 in the past year, plus 262 others killed in prior years, on a Peace Officers Memorial at the National Candlelight Vigil at the National Memorial here in Washington, D.C., and I hope during this next week while we are in and out of Washington, D.C., we take a moment to reflect upon those individuals who provided so much to us, people and individuals we often take for granted, our law enforcement officials throughout this great Nation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MORAN of Virginia (at the request of Ms. PELOSI) for today.

Ms. WASSERMAN SCHULTZ (at the request of Ms. PELOSI) for today after noon.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PASCREL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, May 18.

Mr. TIAHRT, for 5 minutes, today.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. KING of Iowa, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 16, 17 and 18.

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. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 11, 2005 he presented to the President of the United States, for his approval, the following bill.

H.R. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

ADJOURNMENT

Mr. STUPAK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Thursday, May 12, 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:

1938. A letter from the Inspector General, Department of Agriculture, transmitting the Department's investigative report of the Forest Service (FS) fatalities that occurred in the Cramer Fire in the Salmon-Challis National Forest in Idaho on July 22, 2003, pursuant to Public Law 107–203; to the Committee on Agriculture.

1939. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Evan M. Chanik, Jr., United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1940. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Claude R. Kehler, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1941. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Barry M. Costello, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1942. A letter from the Director, Pentagon Renovation & Construction Program Office, Department of Defense, transmitting the fifteenth annual report on the Pentagon Renovation Program, pursuant to 10 U.S.C. 2674; to the Committee on Armed Services.

1943. A letter from the Deputy Secretary, Department of Defense, transmitting the semiannual report of the Inspector General for the period October 1, 2004 through March 31, 2005, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Armed Services.

1944. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Risk-Based Capital Standards; Trust Preferred Securities and the Definition of Capital [Regulations H and Y; Docket No. R-1193] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1945. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7563] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1946. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1947. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7642] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1948. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1949. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7873] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1950. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7451] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1951. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Detemrinations — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1952. A letter from the General Counsel/FEMA, Department of Homeland Security,

transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7871] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1953. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Eligibility of Adjustable Rate Mortgages [Docket No. FR-4946-I-01; HUD 2005-0004] (RIN: 2502-AI26) received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1954. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable on Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumption for Valuing and Paying Benefits — received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1955. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Electronic Filing — Annual Financial and Actuarial Information (RIN: 1212-AB01) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1956. A letter from the Secretary, Department of Energy, transmitting the fiftieth report outlining the status of Exxon and Stripper Well Oil Overcharge Funds as of September 30, 2004, satisfying the request set forth in the Conference Report accompanying the Department of Interior and Related Agencies Appropriations Act of 1988 (Public Law 100-202); to the Committee on Energy and Commerce.

1957. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report entitled, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2004,'' pursuant to 42 U.S.C. 5848; to the Committee on Energy and Commerce.

1958. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 05-10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1959. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the activities of the United States Government departments and agencies relating to the prevention of nuclear proliferation between January 1 and December 31, 2004, pursuant to 22 U.S.C. 3281; to the Committee on International Relations.

1960. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995; to the Committee on International Relations.

1961. A letter from the Chairman, Securities and Exchange Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act covering the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1962. A letter from the Director, Regulatory Management Division, Department of Homeland Security, transmitting the Department's final rule — Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment Based Immigrants [CIS No. 2277-03; DHS-2004-0013] (RIN: 1615-AB14) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1963. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 Annual Report of the Office of the Police Corps and Law Enforcement Education, pursuant to Public Law 103–322, section 200113 of Title XX; to the Committee on the Judiciary.

1964. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting the Department's final rule — Preservation of Biological Evidence Under 18 U.S.C. 3600A [Docket No. OAG 109; A.G. Order 2762-2005] (RIN: 1105-AB10) received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1965. A letter from the General Counsel, Office of Justice Programs, Department of Justice, transmitting the Department's final rule — Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace Grants [Docket No. OJP(OJP)-1306; AG Order No. 2759-2005] (RIN: 1121-AA57) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1966. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting a copy of the annual audit report of the Paralyzed Veterans of America for the fiscal year 2004, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. DINGELL, Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Ms. HERSETH, Mr. STRICKLAND, Ms. HOOLEY, Mr. REYES, Mr. UDALL of New Mexico, Mr. SHERMAN, Mr. PALLONE, Ms. CARSON, Mr. SCHIFF, Mr. HOLT, Mr. DAVIS of Florida, Mrs. MALONEY, Mr. SERRANO, Mrs. JONES of Ohio, Mr. HIGGINS, Mr. GRIJALVA, Mr. MORAN of Virginia, and Mr. CONYERS):

H.R. 2248. A bill to amend title 38, United States Code, to improve benefits under the Montgomery GI Bill by establishing an enhanced educational assistance program, by increasing the amount of basic educational assistance, by repealing the requirement for reduction in pay for participation in the program, by eliminating the time limitation for use of benefits under the program, by expanding the opportunities to transfer educational assistance benefits to dependents, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTER:

H.R. 2249. A bill to amend the Internal Revenue Code of 1986 to modify and make refundable the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 2250. A bill to require the Attorney General to investigate allegations of violations of Federal criminal law regarding elections not later than 30 days after receiving the allegation, to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration application forms and the handling of absentee ballots, to require individuals to produce photo identification as a condition of registering to vote or voting in elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, 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. REYNOLDS (for himself, Mr. POMEROY, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. NUSSLE, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. HAYWORTH, Mr. WELLER, Mr. HULSHOF, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. LINDER, Mr. BEAUPREZ, Ms. HART, Mr. CHOCOLA, Mr. CARDIN, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. JEFFERSON, Mr. TANNER, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. TERRY, Mr. CULBERSON, Mr. GALLEGLY, Mr. DENT, and Mr. PUTNAM):

H.R. 2251. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the proceeds from certain company-owned life insurance; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2252. A bill to suspend temporarily the duty on Permethrin; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2253. A bill to suspend temporarily the duty on Cyazofamid; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2254. A bill to suspend temporarily the duty on Cypermethrin; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2255. A bill to suspend temporarily the duty on on Flonicamid; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2256. A bill to suspend temporarily the duty on Zeta-Cypermethrin; to the Committee on Ways and Means.

By Mr. BURGESS (for himself, Ms. BERKLEY, and Mr. SAM JOHNSON of Texas):

H.R. 2257. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the Medicare Program to all individuals at clinical risk for osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Alabama (for himself, Mr. COLE of Oklahoma, Mr. BACHUS, Mr. ROGERS of Alabama, and Mr. BONNER):

H.R. 2258. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Ms. PELOSI, Mr. HOYER, Mr. BERRY, Mr. ANDREWS, Mr. RANGEL, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, Mr. STARK, Mr. WAXMAN, Mr. MARKEY, Mrs. CAPPS, Mr. DOYLE, Mr.

RUSH, Ms. SOLIS, Mr. DAVIS of Florida, Mr. GENE GREEN of Texas, Ms. SCHAKOWSKY, Mr. TOWNS, Mr. STRICKLAND, Mr. PALLONE, Mr. ENGEL, Mr. BOUCHER, Ms. ESHOO, Ms. DEGETTE, Ms. MCCOLLUM of Minnesota, Mr. TIERNEY, Mr. OWENS, Mrs. MCCARTHY, Mr. HOLT, Mr. KILDEE, Mr. GRIJALVA, Ms. WOOLSEY, Mrs. DAVIS of California, Mr. NADLER, Mr. VAN HOLLEN, Mr. MCNULTY, Mr. CUMMINGS, Mr. SCHIFF, Mr. HINCHEY, Ms. ROYBAL-ALLARD, Mr. HONDA, Mr. ABERCROMBIE, Mr. FARR, Mr. WEXLER, Mr. BRADY of Pennsylvania, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MOORE of Kansas, Mr. DICKS, Mr. CLAY, Mr. KUCINICH, and Mr. HASTINGS of Florida):

H.R. 2259. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; 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. ENGLISH of Pennsylvania:

H.R. 2260. A bill to suspend temporarily the duty on certain adsorbent resins; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2261. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2262. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2263. A bill to extend the suspension of duty on 10'10' Oxybisphenoxarsine; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2264. A bill to extend the suspension of duty on Copper 8-quinolinolate; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2265. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2266. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2267. A bill to suspend temporarily the duty on a certain ion exchange resin powder; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2268. A bill to suspend temporarily the duty on a certain ion exchange resin powder; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2269. A bill to extend the temporary suspension of duty on helium; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2270. A bill to suspend temporarily the duty on Desmodur E 14; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2271. A bill to suspend temporarily the duty on Desmodur IL; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2272. A bill to suspend temporarily the duty on Desmodur HL; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2273. A bill to suspend temporarily the duty on Desmodur VP LS 2253; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2274. A bill to suspend temporarily the duty on Desmodur R-E; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2275. A bill to suspend temporarily the duty on Walocel MW 3000 PFV; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2276. A bill to suspend temporarily the duty on TSME; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2277. A bill to suspend temporarily the duty on Walocel VP-M 20660; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2278. A bill to suspend temporarily the duty on Citral; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2279. A bill to suspend temporarily the duty on XAMA 2; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2280. A bill to suspend temporarily the duty on XAMA 7; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2281. A bill to suspend temporarily the duty on 2-Ethylhexyl 4-methoxycinnamate; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2282. A bill to suspend temporarily the duty on 4-Methoxybenzaldehyde; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2283. A bill to provide for the extension of the New Jersey Coastal Heritage Trail into the Township of Woodbridge, New Jersey; to the Committee on Resources.

By Mr. FLAKE:

H.R. 2284. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN:

H.R. 2285. A bill to extend the temporary suspension of duty on certain bags for toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2286. A bill to extend the temporary suspension of duty on cases for certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2287. A bill to extend the temporary suspension of duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2288. A bill to suspend temporarily the duty on certain cases for toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2289. A bill to suspend temporarily the duty on certain cases for toys; to the Committee on Ways and Means.

By Mr. HENSARLING (for himself, Mr. RYAN of Wisconsin, Mr. CHOCOLA, Mr. COX, Mr. AKIN, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CANNON, Mr. CARTER, Mr. CHABOT, Mr. COLE of Oklahoma, Mrs. CUBIN, Mr. MARIO DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. FEENEY, Mr. FLAKE, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Ms. HART, Mr. HERGER, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. JINDAL, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KLINE, Mr. MACK, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. OTTER, Mr. PENCE, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SHADEGG, Mr. SOUDER, Mr. TANCREDO, Mr. TURNER, Mr. WESTMORELAND, Mr. HAYWORTH, and Mr. BACHUS):

H.R. 2290. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, Ways and Means, Appropriations, and Government Reform, 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. HERSETH (for herself, Mr. JEFFERSON, Mr. SNYDER, Ms. BERKLEY, Mr. HIGGINS, Mr. NADLER, Mr. BOUCHER, Mr. MOORE of Kansas, Mr. ISRAEL, Mr. LEWIS of Georgia, Mr. BAIRD, Mr. ROSS, Mr. GENE GREEN of Texas, Mr. HONDA, Mr. BERRY, Mr. BOSWELL, Mr. CLAY, Mr. GONZALEZ, Ms. KAPTUR, Mr. REYES, Mr. RUPPERSBERGER, Mr. HINOJOSA, Mr. DAVIS of Alabama, Mr. THOMPSON of California, Mr. CROWLEY, Mr. MEEKS of New York, and Mr. BISHOP of New York):

H.R. 2291. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. OWENS, Mr. ENGEL, Mr. LYNCH, Mr. CROWLEY, Mr. MCDERMOTT, Mr. KILDEE, Mr. NADLER, Mr. BROWN of Ohio, Mr. CONYERS, Mr. CLAY, Mr. WEXLER, Mr. BUTTERFIELD, Mr. PALLONE, Mr. CHANDLER, Mrs. MCCARTHY, Mr. MCNULTY, Mr. PAYNE, Mr. BISHOP of New York, Mr. ROSS, Mr. JEFFERSON, Mr. MCGOVERN, Mr. SANDERS, Mr. TOWNS, Ms. DEGETTE, Mr. WU, Mr. RANGEL, Mr. NEAL of Massachusetts, Ms. LINDA T. SÁNCHEZ of California, Mr. MOORE of Kansas, Mr. RUPPERSBERGER, Mr. SNYDER, Mr. WYNN, and Mr. BOUCHER):

H.R. 2292. A bill to provide for public library construction and modernization; to the Committee on Education and the Workforce.

By Mr. HOSTETTLER (for himself and Mr. HUNTER):

H.R. 2293. A bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself and Ms. FOXX):

H.R. 2294. A bill to amend the Communications Act of 1934 to prohibit the use of autodialers for purposes of political solicitations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina:

H.R. 2295. A bill to prohibit a State from receiving Federal education funds unless the

State has certain policies and procedures regarding the purchase or acquisition of library and classroom-based reference, instructional, and other print materials for use in elementary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. LOWEY:

H.R. 2296. A bill to amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready Reserve and National Guard while serving abroad; to the Committee on Ways and Means.

By Ms. MCKINNEY:

H.R. 2297. A bill to establish the Arabia Mountain National Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Mr. OWENS, Ms. WOOLSEY, Mr. WAXMAN, Mr. HOLT, Mr. LYNCH, Mr. GRIJALVA, Mr. MICHAUD, Mr. VAN HOLLEN, Mr. KILDEE, Ms. DELAURO, Mr. MCGOVERN, Mr. DAVIS of Illinois, Mr. EVANS, Ms. MCCOLLUM of Minnesota, Mr. KUCINICH, Mr. BROWN of Ohio, Mr. PAYNE, Ms. WATSON, Mr. WEINER, Mr. BERMAN, Mr. ABERCROMBIE, Mr. MCDERMOTT, Mr. STARK, and Mr. TIERNEY):

H.R. 2298. A bill to provide for labor recruiter accountability, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H.R. 2299. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish therapeutic equivalence requirements for generic drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAHALL:

H.R. 2300. A bill to amend title 38, United States Code, to extend eligibility for pension benefits under laws administered by the Secretary of Veterans Affairs to veterans who served during certain periods of time in specified locations; to the Committee on Veterans' Affairs.

By Mr. RAHALL (for himself, Mr. BROWN of Ohio, and Mr. SANDERS):

H.R. 2301. A bill to amend title 38, United States Code, to extend eligibility for pension benefits under laws administered by the Secretary of Veterans Affairs to veterans who received an expeditionary medal during a period of military service other than a period of war; to the Committee on Veterans' Affairs.

By Mr. RAMSTAD:

H.R. 2302. A bill to extend the suspension of duty on certain 12-volt batteries; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 2303. A bill to extend the suspension of duty on certain light absorbing photo dyes; to the Committee on Ways and Means.

By Mr. SNYDER:

H.R. 2304. A bill to provide for the payment of certain annuities under section 376 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. STRICKLAND:

H.R. 2305. A bill to ensure that the incarceration of inmates is not provided by private contractors or vendors and that persons charged or convicted of an offense against the United States shall be housed in facilities managed and maintained by Federal, State, or local governments; to the Committee on the Judiciary.

By Mr. STRICKLAND (for himself, Mr. DINGELL, Mr. CASE, Mr. GUTIERREZ, Mr. FILNER, Mr. BISHOP of Georgia, Ms. BORDALLO, Mr. CARDOZA, Mr. TOWNS, Mr. SALAZAR, Mr. BROWN of Ohio, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. HOLDEN, Mr. WYNN, Mr. SHERMAN, Mr. HONDA, Ms. HERSETH, and Mr. RUPPERSBERGER):

H.R. 2306. A bill to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for outreach to veterans and their family members, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. UDALL of New Mexico:

H.R. 2307. A bill to amend the Internal Revenue Code of 1986 to treat certain payments made to the European Union in lieu of income taxes to a member of the European Union as income taxes paid to a foreign country for purposes of the foreign tax credit; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself and Mr. DOYLE):

H.R. 2308. A bill to amend the Public Health Service Act to provide for clinical research support grants, clinical research infrastructure grants, and a demonstration program on partnerships in clinical research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina:

H.R. 2309. A bill to suspend temporarily the duty on Aniline 2.5 Di-sulphonic Acid; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2310. A bill to suspend temporarily the duty on 1,4-Benzenedicarboxylic Acid, Polymer With N,N-Bis(2-Aminoethyl)-1,2-Ethanediamine, Cyclized, Me Sulfates; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2311. A bill to extend the temporary suspension of duty on certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2312. A bill to extend the temporary suspension of duty on certain R-core transformers; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2313. A bill to suspend temporarily the duty on Sulfur Blue 7; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2314. A bill to extend the suspension of duty on reduced vat blue 43; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2315. A bill to extend the suspension of duty on sulfur black 1; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2316. A bill to suspend temporarily the duty on Diresul Brown GN Liquid Crude; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina (for himself, Ms. ROS-LEHTINEN, Mr. CANTOR, Mr. PENCE, Mr. ACKERMAN, Mr. GENE GREEN of Texas, Mr. HASTINGS of Florida, and Mr. LANTOS):

H. Con. Res. 149. Concurrent resolution recognizing the 57th anniversary of the independence of the State of Israel; to the Committee on International Relations.

By Mr. FERGUSON:

H. Con. Res. 150. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the USS New Jersey and all those who served aboard her; to the Committee on Government Reform.

By Mr. EDWARDS:

H. Res. 271. A resolution providing for consideration of the bill (H.R. 808) to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation; to the Committee on Rules.

By Ms. JACKSON-LEE of Texas (for herself, Mr. BURTON of Indiana, Mr. LANTOS, Ms. BERKLEY, Mrs. JONES of Ohio, Mr. CLYBURN, Mr. SHIMKUS, Mr. WELDON of Florida, Mr. BARTON of Texas, Ms. NORTON, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. WILSON of South Carolina, Ms. LEE, Mr. AL GREEN of Texas, Mr. WYNN, Mr. BISHOP of Georgia, Mr. MEEKS of New York, Mr. VAN HOLLEN, Mr. DAVIS of Illinois, Mr. STUPAK, Ms. WOOLSEY, Mr. JEFFERSON, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. SERRANO, and Mr. PAYNE):

H. Res. 272. A resolution recognizing the historic steps India and Pakistan have taken toward achieving bilateral peace; to the Committee on International Relations.

By Mr. MCCOTTER (for himself, Ms. ROS-LEHTINEN, Mr. ENGEL, Mr. COX, Mr. BURTON of Indiana, and Mr. SCHWARZ of Michigan):

H. Res. 273. A resolution urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; to the Committee on International Relations.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Ms. SOLIS, Mrs. NAPOLITANO, Mr. GRIJALVA, Ms. LORETTA SANCHEZ of California, Mr. BECERRA, Ms. ROYBAL-ALLARD, Ms. HARMAN, Mr. BACA, Mr. SHERMAN, Ms. WATSON, Mr. BERMAN, Mr. HONDA, Mr. WAXMAN, Ms. ZOE LOFGREN of California, Mr. FILNER, and Mrs. CAPPS):

H. Res. 274. A resolution recognizing Miguel Contreras, on the occasion of his death, for his tireless work on behalf of immigrants and working people; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. THOMPSON of California, Mr. WHITFIELD, and Mr. MURPHY.

H.R. 21: Mr. WYNN, Mr. FRANKS of Arizona, Mr. GIBBONS, Ms. ESHOO, Mr. WU, Mrs. CUBIN, Ms. CORRINE BROWN of Florida, Mr. HONDA, Mr. DOGGETT, Mr. Higgins, and Mr. LIPINSKI.

H.R. 22: Mr. BILIRAKIS and Mr. DOYLE.

H.R. 65: Mr. LANGEVIN.

H.R. 72: Mr. NEUGEBAUER and Mr. BOUSTANY.

H.R. 94: Mr. TURNER.

H.R. 97: Mr. SCHWARZ of Michigan and Mr. MCCOTTER.

H.R. 98: Mrs. NAPOLITANO.

H.R. 111: Mr. SHAYS, Mr. TANNER, Ms. ROYBAL-ALLARD, Ms. WATSON, Mrs. CHRISTENSEN, Mr. WYNN, Ms. JACKSON-LEE of Texas, Mr. SALAZAR, Mr. BARRETT of South Carolina, Mr. MEEK of Florida, Ms. BERKLEY, and Mr. NADLER.

H.R. 136: Mr. PRICE of Georgia.

H.R. 239: Mr. BISHOP of Utah and Mr. MANZULLO.

H.R. 303: Mr. CARTER, Mr. HOLT, Mr. RYAN of Ohio, and Mr. MCINTYRE.

H.R. 305: Mr. WALDEN of Oregon, Mr. GINGREY, and Mr. FERGUSON.

H.R. 378: Mr. LEWIS of Georgia.

H.R. 389: Mr. MURPHY.

H.R. 438: Ms. MATSUI and Mr. HONDA.

H.R. 500: Mr. BISHOP of Utah.

H.R. 530: Mr. FRANKS of Arizona.

H.R. 550: Mr. KANJORSKI.

H.R. 665: Mr. BERMAN, Mr. CARDOZA, and Mr. FILNER.

H.R. 669: Ms. MILLENDER-MCDONALD, Mr. CHANDLER, and Mr. ROGERS of Kentucky.

H.R. 670: Ms. HARRIS and Ms. MCCOLLUM of Minnesota.

H.R. 691: Mr. UDALL of Colorado, Mr. TIBERI, Mr. STUPAK, and Mr. HASTINGS of Washington.

H.R. 713: Mr. SCOTT of Georgia.

H.R. 799: Mr. LIPINSKI.

H.R. 810: Mr. OBEY.

H.R. 819: Mr. BOEHLERT.

H.R. 896: Mr. CAMP, Mr. COOPER, Mr. PALLONE, and Mr. BARTLETT of Maryland.

H.R. 897: Mr. KING of New York.

H.R. 909: Mr. GONZALEZ.

H.R. 930: Mr. BOYD, Mr. KUHL of New York, and Mr. MCHUGH.

H.R. 939: Mr. CLEAVER, Mr. DAVIS of Alabama, and Mr. KILDEE.

H.R. 947: Mr. CANNON and Mr. ROGERS of Kentucky.

H.R. 963: Mr. FARR.

H.R. 970: Ms. SLAUGHTER.

H.R. 983: Ms. ZOE LOFGREN of California.

H.R. 1108: Mr. GENE GREEN of Texas, Ms. KAPTUR, Mr. STRICKLAND, Mr. BERMAN, Mr. MCCOTTER, Mr. GOODE, and Mr. WEINER.

H.R. 1126: Mr. MILLER of North Carolina, Mrs. CAPPS, Ms. ROYBAL-ALLARD, and Mrs. KELLY.

H.R. 1131: Mr. SAXTON, Mr. KENNEDY of Minnesota, and Mr. TURNER.

H.R. 1132: Mr. WEXLER, Ms. DELAURO, Ms. JACKSON-LEE of Texas, and Mr. ROGERS of Michigan.

H.R. 1146: Mr. MILLER of Florida, and Ms. FOXX.

H.R. 1198: Mr. REYES.

H.R. 1217: Mr. SHAYS.

H.R. 1219: Mr. SULLIVAN.

H.R. 1227: Mr. UDALL of New Mexico, Mr. LAHOOD, Mr. DEFAZIO, Mr. MOORE of Kansas, and Ms. ROYBAL-ALLARD.

H.R. 1241: Mr. SCHWARZ of Michigan and Mr. CHOCOLA.

H.R. 1298: Mr. REYES, Mr. PAYNE, Ms. MCKINNEY, and Mrs. MCCARTHY.

H.R. 1322: Mr. FRANK of Massachusetts, Mr. HOLDEN, Mr. DEFAZIO, Mr. WEXLER, Mrs. MCCARTHY, Mr. KUCINICH, Mr. HASTINGS of Florida, and Mr. WEINER.

H.R. 1329: Mr. BLUMENAUER, Mr. GEORGE MILLER of California, and Mr. DEFAZIO.

H.R. 1337: Mr. NUNES, Mr. HAYWORTH, Mrs. WILSON of New Mexico, and Mr. CAMP.

H.R. 1353: Ms. NORTON.

H.R. 1366: Mr. EDWARDS.

H.R. 1440: Ms. ZOE LOFGREN of California.

H.R. 1448: Mr. EHLERS, Ms. KILPATRICK of Michigan, Mr. MCCOTTER, Mr. DINGELL, Mr. KILDEE, Mr. LEVIN, Mr. UPTON, Mr. CONYERS, Mr. HOEKSTRA, Mr. ROGERS of Michigan, and Mr. KNOLLENBERG.

H.R. 1474: Mr. CONYERS.

H.R. 1492: Mr. SCHIFF, Mr. YOUNG of Alaska, and Ms. HERSETH.

H.R. 1493: Mr. PORTER.

H.R. 1498: Mr. ROGERS of Kentucky, Mr. JACKSON of Illinois, Mr. KUHL of New York, Mr. ABERCROMBIE, Mr. SODREL, and Mr. SAXTON.

H.R. 1499: Mr. SOUDER.

H.R. 1505: Mr. BARROW and Mr. BAKER.

H.R. 1522: Mr. RANGEL, Mr. MCDERMOTT, and Mr. LANTOS.

H.R. 1553: Mr. JINDAL and Mr. CARDOZA.

H.R. 1566: Mrs. BLACKBURN.

H.R. 1585: Mr. HOLDEN, Mr. GREEN of Wisconsin, and Mr. GOODE.

H.R. 1589: Mr. STARK, Ms. SCHAKOWSKY, and Mr. MEEKS of New York.

H.R. 1591: Ms. ZOE LOFGREN of California, Ms. BORDALLO, Ms. MCCOLLUM of Minnesota, Mrs. MALONEY, Mr. ENGLISH of Pennsylvania, and Mr. MCGOVERN.

H.R. 1592: Mr. ROGERS of Michigan.

H.R. 1607: Miss MCMORRIS and Mr. HAYWORTH.

H.R. 1645: Mr. FATTAH and Mr. WELDON of Pennsylvania.

H.R. 1658: Mr. PRICE of Georgia.

H.R. 1671: Mr. SKELTON.

H.R. 1672: Ms. SCHAKOWSKY.

H.R. 1678: Mr. GREEN of Wisconsin.

H.R. 1696: Mr. DAVIS of Florida, and Mr. OBEY.

H.R. 1714: Mr. HALL.

H.R. 1737: Mr. DELAHUNT, Ms. SCHAKOWSKY, and Ms. ROS-LEHTINEN.

H.R. 1797: Mr. INSLEE.

H.R. 1821: Mr. FORBES.

H.R. 1861: Ms. SCHAKOWSKY.

H.R. 1879: Mr. ENGLISH of Pennsylvania.

H.R. 1954: Mr. UPTON, Mr. CUMMINGS, Mr. TOWNS, and Mr. WOLF.

H.R. 1956: Mr. GALLEGLY and Mr. CARTER.

H.R. 1973: Mrs. NAPOLITANO, Mr. CROWLEY, Mr. FRANK of Massachusetts, Mrs. CHRISTENSEN, Mr. BURTON of Indiana, Mr. WAXMAN, and Mr. PAYNE.

H.R. 1994: Mr. SANDERS, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS of Florida.

H.R. 2000: Ms. ESHOO.

H.R. 2047: Mr. FRANKS of Arizona.

H.R. 2074: Mr. CASE.

H.R. 2089: Mr. GERLACH.

H.R. 2101: Mr. HASTINGS of Florida.

H.R. 2129: Ms. SCHWARTZ of Pennsylvania.

H.R. 2233: Ms. WASSERMAN SCHULTZ.

H. Con. Res. 76: Mr. BILIRAKIS.

H. Con. Res. 82: Mr. POE.

H. Con. Res. 132: Mr. MILLER of Florida.

H. Con. Res. 141: Mr. WOLF.

H. Con. Res. 144: Mr. KIRK, Mr. GERLACH, Mr. NEUGEBAUER, Mr. GRAVES, and Mr. ROGERS of Michigan.

H. Con. Res. 145: Mr. GUTIERREZ, Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mr. KILDEE, Mr. DEFAZIO, Mr. GRIJALVA, Ms. WOOLSEY, Mr. MORAN of Virginia, Mr. HONDA, Ms. LEE, Mr. CHANDLER, Mr. CASE, and Mr. MICHAUD.

H. Res. 67: Mr. MCGOVERN, Mr. TOWNS, and Mr. BLUMENAUER.

H. Res. 155: Mr. SANDERS.

H. Res. 175: Mr. MENENDEZ.

H. Res. 199: Mr. MARKEY, Mr. MCINTYRE, Mr. TANCREDO, Ms. WATSON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 220: Mr. HOLDEN, Mr. PASCRELL, Mr. REYES, Mr. BAKER, Mr. POE, and Mr. MCDERMOTT.

H. Res. 243: Mr. SOUDER, Mr. BONNER, Mrs. MILLER of Michigan, Mr. GRIJALVA, Ms. BORDALLO, Mr. HASTINGS of Florida, Mr. MCINTYRE, Mr. ISRAEL, Mr. INSLEE, Mr. BURTON of Indiana, Mr. ROGERS of Kentucky, and Mr. UPTON.

H. Res. 252: Mr. HOSTETTLER.

H. Res. 266: Mr. DREIER, Mr. KING of New York, Mr. SKELTON, Mr. VAN HOLLEN, Mrs. CHRISTENSEN, Ms. KAPTUR, Mr. SHIMKUS, Mr. GREEN of Wisconsin, Mr. SALAZAR, Mr. CARDOZA, Mr. MCCAUL of Texas, Mr. COSTELLO, Mr. ROYCE, Mr. LANTOS, Mr. MCGOVERN, Ms. KILPATRICK of Michigan, Mr. MCNULTY, Mr. NEAL of Massachusetts, Mr. SESSIONS, Mr. UDALL of Colorado, Ms. GRANGER, Ms. LORETTA SANCHEZ of California, Mr. TANCREDO, and Mr. SAXTON.

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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, today we praise Your name for the gift of life. We could not have awakened this morning without Your power. Yet so often we take our breath and heartbeats for granted.

Forgive us when we lose our awe for the miracle of life and fail to do our part to protect and sustain it. Give us wisdom to take care of the temples of our bodies and may our souls prosper as we experience physical well-being.

Lord, strengthen our Senators today. Keep them open to a growing faith and a maturing set of convictions. Help them to do with faithfulness that which lies to their hands, so that they may finish their race with joy.

Make each of us willing to pay the price for freedom.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 11, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning after 60 minutes of morning business we will resume debate on the highway bill. As I announced on several occasions, this is the second week for consideration of the bill. It is our hope to complete work this week.

Last night, cloture motions were filed to the substitute and the bill in an effort to bring the bill to conclusion this week. Today, we will make additional progress on the bill prior to those cloture votes, which will occur on Thursday. If cloture is invoked, there could be up to 30 hours remaining for consideration of the pending substitute amendment. Therefore, Senators should have ample time for debate and amendments. I hope we will not use all of the time and we could finish the bill at the earliest possible point in time.

We expect a busy session for the remainder of the week as we continue to make progress on the highway bill.

MIDDLE EAST VISIT—WEST BANK

Mr. FRIST. Mr. President, over the recess last week, I had the opportunity to travel to Israel, the West Bank, Jordan, Lebanon, and Egypt. Yesterday, I reported on the Israel leg of my fact-finding mission. Today I will continue briefly with that discussion of some of my observations of the West Bank.

It was an invaluable experience. I and my entire group learned a tremendous amount about the Palestinian perspective. Following my meetings in Jerusalem, we made our way to Ramallah in the West Bank to meet with the leadership of the Palestinian Authority. As we drove toward the city, we could see from our windows that everyday life for Palestinians in the West Bank is, indeed, a struggle. We had to pass through multiple checkpoints, predominantly through the security barrier, the so-called fence, much of which is newly constructed.

As I learned on my visit to the Middle East, the fence has been, in truth, very successful in preventing terrorist attacks, although it was quite remarkable that you had to stop and be checked out before passing this fence, which sometimes you had to cross multiple times.

We could also see the toll the Intifada has taken on the lives of the Palestinian people. Streets were pockmarked, buildings were run down, and a pall hung over the landscape itself. It is clear the Palestinians need one thing; that is, hope—hope for the future, hope for a better life, hope for a more secure life. They need their economic services improved. They need their social services improved. They need to believe there will be tangible benefits from choosing dialog over violence.

This view was reinforced during my meeting with Palestinian Finance Minister Salam Fayyad. I learned from him that the unemployment rate in the West Bank is officially 27 percent, but it far exceeds that number. The people are suffering. That is why I strongly support President Bush's efforts to increase assistance to the Palestinian

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people. President Bush has pledged to help improve economic support programs and strengthen Palestinian democratic institutions.

The Finance Minister and I discussed President Bush's generous proposal to provide assistance to the Palestinian Authority. The Finance Minister agrees this assistance is crucial as President Abbas seeks to strengthen the mandate he earned in the January Palestinian elections.

From the Finance Minister's office we went on to the Presidential compound in Ramallah to meet with President Mahmoud Abbas. The meeting was constructive. The parties on all sides appear to appreciate the importance of a longstanding and meaningful dialog on ways to bring peace and security to the Middle East. We had a very open and candid discussion about the status of the peace process, the Palestinians' obligations under the roadmap, and the need for both sides to establish greater trust. In particular, we talked of the need to coordinate the Israeli withdrawal from the Gaza Strip so that the Palestinian Authority can reestablish a strong presence in that territory. This whole concept of coordination seemed and is so critical to that successful disengagement.

It is crucial that after that withdrawal the Palestinian Authority is able to strengthen its democratic institutions and maintain security and maintain law and order.

We discussed Israel's withdrawal from the Gaza Strip. I believe that is a courageous decision on the part of the Israelis. President Abbas expressed his concern over unilateral Israeli measures, stressing that progress toward peace should be made through dialog, bringing people together through negotiation and through coordination.

To that end, President Abbas expressed his commitment to dismantling the terrorist organizations and preventing terrorist attacks against Israel. This came up again and again. He conveyed to me his firm belief that nonviolence is the path to a Palestinian State.

In our discussions it was evident that President Abbas is a serious leader, an elected leader, but also a leader who is in a very difficult situation. His election victory gave him a strong mandate to depart from his predecessor's legacy, Arafat's legacy, of violence and terrorism. But he must also compete for that popular support with violent factions such as Hamas that continue to reject peace with Israel, and at the same time they garner support among the people by providing social services to the people. That is what President Abbas faces.

I strongly believe it is, therefore, necessary that the United States continue to support President Abbas in his efforts to transform the Palestinian Authority's reputation for cronyism, corruption, and nontransparency. We need to actively help his administration reform and strengthen the Palestinian security and improve economic services. We must continue to support both economic and social services and offer a stable and peaceful alternative to the radicals that reject peace.

We also had the opportunity to talk with an independent Presidential candidate who lost in the election but garnered significant support—a physician, Dr. Mustafa Barghuti, who ran as an independent in the Presidential elections 5 months ago. He spoke of a need for a strong, viable, independent party to serve as an alternative to Hamas. Like President Abbas, he believes peace is the only path to an independent Palestinian State.

Dr. Barghuti took me on a tour of his medical relief prevention and diagnostic center for cardiovascular disease in Ramallah. It was quite impressive. It is a model he developed as a physician that he hopes, with the appropriate resources, he will be able to spread through the West Bank. We share that common bond of being physicians and had a great dialog on the importance of social services provided through health care to further build that support of this new government.

My experience in the West Bank in my meetings with the various leaders of the Palestinian Authority bolstered my belief that President Abbas is a genuine partner for peace in the Middle East. I also witnessed firsthand how the conflict has deeply affected the daily lives and routines of many Palestinians.

I take this opportunity to urge my colleagues to support President Abbas in his efforts to improve the lives of the Palestinian people and make their governing institutions more accountable and responsible to all. I am hopeful his nonviolent approach to relations with Israel will eventually lead to a viable, independent Palestinian State that is able to live side by side with Israel in peace and security for both.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the last half of the time under the control of the majority leader or his designee.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use on the Democratic side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NUCLEAR OPTION AND ABUSE OF POWER

Mr. KENNEDY. Mr. President, from its beginnings, America has stood for fairness, opportunity and justice. Generation after generation our Nation has been able, often with intense debates, to give greater meaning to these values in the lives of more and more of our citizens. We know today we are a better Nation when our democracy and our policies reflect these values. We are a stronger America when our actions respect those values for all our citizens especially those who are the backbone of America those—who work hard every day, who care for their families, and who love their country.

Fairness; opportunity; justice.

But what we have seen in recent years is a breach of these values in order to reward the powerful at the expense of average Americans.

Those in power passed massive tax breaks for the wealthy and shortchanged everyone else.

They granted sweetheart deals to Halliburton Corporation in Iraq while our troops went without armor.

They let the polluters write the pollution rules for our water and our air.

They let the oil industry write the energy policy in secret meetings in the White House.

Two weeks ago, over the opposition of every Democrat in the House and Senate, they forced through a Federal budget that preserves corporate tax loopholes at the expense of college aid, and slashes Medicaid for poor mothers to pay for tax breaks for millionaires.

They twisted arms for 3½ hours in the dead of night on the floor of the House to pass by a single vote a so-called Medicare reform that lavishes billions of dollars on HMOs and drug companies at the expense of senior citizens and the disabled.

They broke the ethics rules of the House of Representatives, then changed the rules to avoid investigation.

They want to break the promise of Social Security to our citizens by privatizing it, handing it over to Wall Street, and cutting benefits for middle-income Americans.

Their actions are a setback for the cause of fairness, opportunity and justice for all.

Now, Republican leaders want to break the Senate to get their way this time with the Nation's courts.

It's not as if the Senate has failed to confirm President Bush's nominations to the Federal courts. So far, we have approved 208 of his appointments and declined to approve only 10. We have blocked only the very, very few who are so far out of the mainstream that they have no place in our Federal judiciary. And yes, we have been willing to filibuster those nominees to protect America from their extremism.

Yet, Republican leaders now propose to scuttle the very Senate rules that have protected our constitution and our citizens for more than two centuries in a no-holds-barred crusade to

give rightwing activist judges lifetime appointments to the Nation's courts.

They want to break the rules to put judges on our courts who are friendly to polluters and hostile to clean water and clean air.

They want to break the rules to put judges on the courts who are hostile to civil rights, hostile to disability rights, hostile to women's rights, and hostile to workers' rights.

They even want to break the rules to put judges on the bench who condone torture.

The Nation's Founders understood that those in power might believe that the rules most Americans live by don't apply to them. That is why they put in place a democracy that preserves our rights and freedoms through checks and balances. These checks and balances protect our mainstream values by preventing one party from arrogantly and unilaterally imposing its extreme views on the Nation.

The Constitution grants the President a check on Congress by allowing him to veto any measure that he believes crosses the line.

It establishes an independent judiciary of judges with lifetime appointments and irreducible salaries, so they will be immune to political pressures and can serve as a valuable check against illegal or unconstitutional actions by the President or Congress.

It gives the President and the Senate the shared duty of appointing qualified men and women to the courts, as a check against a President who tries to force his will on the courts.

The Founders deliberately designed the Senate to be a special additional check. It is smaller than the House. It has 6 year terms compared to 2 years for the House, and 4 for the President. Our terms are staggered, so that at least two-thirds of us are veterans of a previous Congress. We have unique powers over treaties, appointments, and impeachments. We have full power over our own rules, so that we can be more deliberate and deliberative in our action. The Senate was meant to check an overreaching Executive—or an overreaching House as well, and to resist the fads of public opinion. Over the centuries, we have repeatedly played this balancing and stabilizing role, especially when the independence of the judiciary was threatened by an overreaching Chief Executive.

Thomas Jefferson, at the peak of his popularity and with his party controlling Congress, pushed the Senate to remove a Supreme Court Justice whose decisions Jefferson disagreed with, but the Senate said ''no.''

Franklin Roosevelt tried to expand the Supreme Court, so that he could pack it with Justices who would support his views. Again, a Senate—a Senate under his party's control—said ''no.''

Richard Nixon, having lost one Supreme Court nomination battle to a bipartisan coalition, dared us to reject a second, even worse candidate. But a bipartisan Senate majority honored the Founders' trust by saying ''no.''

Throughout our history, the Senate, has structured its processes to reflect the unique powers entrusted to it. For such irreversible steps as conferring lifetime judicial authority on nominees for the bench, it has given the minority the ability to protect our republic from the combined tyranny of a willful executive branch and an equally willful and like-minded small majority of Senators. Thus the Senate's rules have allowed the minority to make itself heard as long as necessary to stimulate debate and compromise, and even to prevent actions that would undermine the balance of powers, or that a minority of Senators strongly oppose on principle. Especially with respect to appointments, as to which the Senate's ''advice and consent'' is a matter of constitutional prerogative, there has never been a constitutional right, or even a right under the Senate rules, to a floor vote on a nomination that would allow a bare majority to automatically rubberstamp the President's choice.

In fact, until 1917, the Senate had no limit on debate at all, and during that time countless nominees, including judges, not only failed to receive Senate consent, but failed to receive the up or down vote that some pretend has been available as a matter of right.

The cloture rule adopted in 1917 permitted debate to be ended on legislation if two-thirds of the Senate voted to do so, but that rule did not apply to Senate proceedings on nominations. In 1949, the rule was extended to all issues, including nominations. Still, there was no ''right to an up-or-down vote on the floor'' on a matter, because there remained many different ways to prevent it from ever reaching the floor.

In 1975, the two-thirds rule for cloture was reduced to three-fifths, but there was no change in the basic rule: the only floor vote you have ''a right to'' is a floor vote on cloture, and if you lose that vote, the matter does not go forward unless a later cloture vote succeeds or until the opponents are prepared to vote. That has been the consistent practice since the first cloture rule 88 years ago. Everyone knows that is the rule. It has been followed without exception in every Senate since then. We can argue—and most of us have—whether cloture should or should not be invoked on a particular matter. But if the majority is not large enough to win a cloture vote, it cannot move ahead to a final vote on that matter, including a nomination. That is what the rules say. That is what they have always said. And that rule has never been broken, especially when the issue is changing the Senate rules themselves, which still requires a two-thirds majority for cloture.

Just 19 years after the cloture rule was extended to nominations, Republicans in the Senate led a filibuster against a Supreme Court nomination, the nomination by President Johnson of Abe Fortas to be Chief Justice. The Senate Historian describes it accurately on the Senate website: ''October 1, 1968: Filibuster Derails Supreme Court Appointment.''

Some have tried to rewrite the history of that filibuster. But three of us know what happened in 1968 because we were Senators then. President Johnson was one of the best vote counters in our history. If you want to hear a master at work, just listen to his detailed discussion of Senate and House votes on President Johnson's tapes. Lyndon Johnson would not have sent the Fortas nomination to the Senate if he was not completely confident that a majority of the Senate would support the nomination. And in fact those of us who favored the nomination believed he had that support.

The Judiciary Committee reported the Fortas nomination favorably, but its Republican opponents, knowing that they still lacked the votes to defeat the nomination outright, launched a filibuster on the floor, attacking the nominee on a number of different fronts, in an effort to draw away his supporters. In the end, cloture failed, and President Johnson withdrew the nomination.

We may never know what the final vote would have been if there had been no filibuster. But there can be no doubt that what occurred was a filibuster of a Supreme Court nomination, and that the purpose of that Republican-led filibuster was to prevent an up-or-down vote on the nomination. Even though there may have been a majority in support of the nomination when the process started, under the Senate rules at that time there was no way for the majority to cut off the minority's right to continue debate unless two-thirds of the Senate voted to do so. As that cloture vote made clear, there would never be a floor vote on the nomination, unless its opponents ended their filibuster.

In fact the Senate has never allowed a bare majority to silence the minority on any bill or treaty or nomination, least of all on judicial nominees, whom the Framers were determined to keep independent, and whose independence was assured by the Senate's joint role in their appointment. The idea that we should relinquish any part of our power over judicial appointments, while leaving that power intact for nonjudicial nominations and for all legislation, is not only irrational, it is bizarrely backward.

Certainly, this is no time to reduce the ability of the Senate as a whole, and of individual Senators, to assure judicial independence. We need independent courts more than ever. We know that activist groups and their supporters in Congress are putting heavy and well-organized pressure on the courts. They want to restrict rights and liberties in the name of national security. They want to subordinate individual interests to powerful economic interests. They want to intrude

Government into sacrosanct areas of family and religion. They want to reverse longstanding precedents that allow the Nation to realize its full potential.

When one political party controls all the levers of power in both the White House and Congress, and that party feels beholden to a narrow ideological portion of its base, the independence of the courts is more vital than ever. Despite its razor-thin victory in the all-important political campaign last year, following its especially narrow victory in the election in 2000, which was decided by a 5 to 4 vote in the Supreme Court, the Republican party evidently believes it has absolute power. House Republicans yield to the White House, bending House rules to the breaking point to give the President his way. The President has personally picked the majority leader of the Senate and through him seeks to impose unprecedented strict party discipline on Republican Senators.

Now, in a trial run for doing the same to the Supreme Court, the President wants to pack key appellate courts with activist ideological judges he knows could not possibly command a bipartisan consensus in the Senate. It is clear from their records and their resumes that they have been selected precisely because the most radical forces on the Republican right believe they will advance their ideological agenda on the bench.

In these circumstances, we as Senators have not only the right, but the obligation, to use every power at our disposal, within the Senate's rules and traditions, to focus the attention of the Senate and the Nation, and ultimately the President, on the overreaching abuse of power by the White House and the Republican majority. That is what our Senate powers and our Senate rules are meant to do. That is what checks and balances are all about. That is why the filibuster exists.

The Republican argument to the contrary is irrational, incomprehensible and hypocritical. They say that if we dare to use the well-established Senate rules to preserve the independence of the courts, then they are entitled to break the Senate rules to stop us. They assert—and this is the keystone of their argument—that we are abusing the filibuster by actually using it, even on a very few nominations. They seem to say it is permissible to filibuster if you already have a majority of Senators with you; that is, if you don't need to filibuster. But it is not permissible to filibuster if you are in the minority, which is, of course, the only time you need to filibuster. They say you are permitted to filibuster if you don't have the votes to prevent cloture, but are not permitted to do so if you do have the votes to prevent cloture. In short, their argument seems to be that you are allowed to filibuster only when you don't need it or can't make it stick. In a word, their argument is absurd.

The fact is, the Republicans showed in 1968 how the filibuster can be used to change minds when you don't start with enough votes, whether it is Senators' minds, citizens' minds, or just the President's mind.

During the Bush years, the filibuster has been used as an exceptional tool against a small number of judicial nominations—10 out of 218—in contrast to nearly 70 judicial nominations blocked from a floor vote by other Republican tactics during the Clinton administration.

But here is the most important reason the Republican arguments make no sense: It is the President, not the Senate, who determines how often the filibuster is used.

Whenever President Bush decides he would rather pick a fight than pick a judge, then he is likely to be creating the need to filibuster. There is no need for a filibuster if the President takes the ''advice'' of the Senate seriously, under the ''advice and consent'' clause of the constitution, when he nominates lifetime judges for important courts. President Clinton did so with Senator HATCH, the Republican chairman of the Senate Judiciary Committee at the time, on his nominations of Justice Ginsburg and Justice Breyer in the 1990s, and other Presidents have done so throughout history.

Those who do not like the filibuster should take their complaints to the other end of Pennsylvania Avenue, where the real responsibility lies.

The claim that filibustering judges is unconstitutional is without a shred of support in the Constitution or in history. The Republican leadership seems to be on the verge of abandoning that claim. The recent compromise suggested by Senator FRIST would allow the practice to continue for legislation, and for all Cabinet and other executive branch appointments, and even for lifetime Federal district judges. None of these categories is constitutionally distinguishable from Federal appellate court nominations and Supreme Court nominations under the Senate rules. If anything, Article III lifetime appellate judges deserve the filibuster's extra insulation from Executive abuse even more than short-term Cabinet and diplomatic appointments, let alone legislative actions that can be reversed by future legislation.

In short, neither the Constitution, nor Senate Rules, nor Senate precedents, nor American history, provide any justification for selectively nullifying the use of the filibuster.

Equally important, neither the Constitution nor the rules nor the precedents nor history provide any permissible means for a bare majority of the Senate to take that radical step without breaking or ignoring clear provisions of applicable Senate Rules and unquestioned precedents.

Here are some of the rules and precedents that the executive will have to ask its allies in the Senate to break or ignore, in order to turn the Senate into a rubber stamp for nominations:

First, they will have to see that the Vice President himself is presiding over the Senate, so that no real Senator needs to endure the embarrassment of publicly violating the Senate's rules and precedents and overriding the Senate parliamentarian, the way our presiding officer will have to do.

Next, they will have to break Paragraph 1 of Rule V, which requires 1 day's specific written notice if a Senator intends to try to suspend or change any rule.

Then they will have to break paragraph 2 of Rule V, which provides that the Senate rules remain in force from Congress to Congress, unless they are changed in accordance with the existing rules.

Then they will have to break paragraph 2 of Rule XXII, which requires a motion signed by 16 Senators, a 2-day wait and a three-fifths vote to close debate on the nomination itself.

They will also have to break Rule XXII's requirement of a petition, a wait, and a two-thirds vote to stop debate on a rules change.

Then, since they pretend to be proceeding on a constitutional basis, they will have to break the invariable rule of practice that constitutional issues must not be decided by the presiding Officer but must be referred by the Presiding officer to the entire Senate for full debate and decision.

Throughout the process they will have to ignore, or intentionally give incorrect answers to, proper parliamentary inquiries which, if answered in good faith and in accordance with the expert advice of the parliamentarian, would make clear that they are breaking the rules.

Eventually, when their repeated rule-breaking is called into question, they will blatantly, and in dire violation of the norms and mutuality of the Senate, try to ignore the minority leader and other Senators who are seeking recognition to make lawful motions or pose legitimate inquiries or make proper objections.

By this time, all pretense of comity, all sense of mutual respect and fairness, all of the normal courtesies that allow the Senate to proceed expeditiously on any business at all will have been destroyed by the preemptive Republican nuclear strike on the Senate floor.

To accomplish their goal of using a bare majority vote to escape the rule requiring 60 votes to cut off debate, those participating in this charade will, even before the vote, already have terminated the normal functioning of the Senate. They will have broken the Senate compact of comity, and will have launched a preemptive nuclear war. The battle begins when the perpetrators openly, intentionally and repeatedly, break clear rules and precedents of the Senate, refuse to follow the advice of the Parliamentarian, and commit the unpardonable sin of refusing to recognize the minority leader.

Their hollow defenses to all these points demonstrate the weakness of

their case: They claim, ''We are only breaking the rules with respect to judicial nominations; we promise not to do so on other nominations or on legislation.'' No one seriously believes that. Having used the nuclear option to salvage a handful of activist judges, they will not hesitate to use it to salvage some bill vital to the credit card industry, or the oil industry or the pharmaceutical industry, or Wall Street, or any other special interest. In other words, the Senate majority will always be able to get its way, and the Senate our Founders created will no longer exist. It will be an echo chamber to the House, where the tyranny of the majority is so rampant today.

Our Republican colleagues also claim that ''Senate Democrats have previously used majority votes to change the rules'', so they can do it too. That spurious claim depends entirely on a pseudo-scholarly article by two Republican staffers, who happen, unintentionally, to have provided enough facts to rebut the claim. As Senator BYRD and other experts on the rules have shown, the instances they rely on do not involve breaking the rules or changing the rules. They were narrow and minor interpretations to fill gaps in existing rules, but always consistent with the underlying rules and their purposes, and always in keeping with the regular procedures of the Senate. They never allowed debate on any nomination or bill to be cut off without the required cloture vote. The Nuclear Option, in contrast, involves major changes in the essence of key rules, without following the required procedures for changing the rules. In fact, even at the start of a new Congress, the one time when some of us thought the rules might be changed by a majority, the Senate has repeatedly and explicitly rejected the proposition that the rules can be changed without following the rules.

Why would our Republican colleagues try to do this? The simplest answer is that they will do it because they think they can get away with it. If enough Republicans accede to this raw exercise of unbridled power, and ignore the rules and traditions and comity and history and purpose of the Senate, and think they can pull it off and not be held accountable, then they will try it.

Obviously, their party is also being driven by an irresponsible fringe force that does not care about the credibility of their party or the institutional interests of the Senate or the future of our checks and balances form of government. They were the ones who compelled their leaders on both sides of the Hill to intrude in the tragic case of Terri Schiavo. The overwhelmingly hostile reaction to that fiasco should be enough to encourage the White House not to go down such paths again, especially after Stanley Birch, a conservative appointee of the first President Bush, on a conservative federal circuit court of appeals, excoriated Congress for its unconstitutional interference with the courts, and particularly excoriated Republican opponents of judicial activism for hypocritically pushing their own corrosive brand of judicial activism.

Sadly, with Dr. Frist's encouragement and support, the same rabble rousers recently accused us of blocking nominees because they are ''people of faith,'' thus suggesting that the 208 judges whom we have not blocked are not ''people of faith.'' Clearly these activist ideologues do not agree with the Founders about the need for judicial independence, for the separation of powers, or for the separation of church and state. They have no respect for history, no respect for checks and balances, and no respect for the role of the Senate. They simply want as many judges as possible who will follow their instructions.

Fortunately, the vast majority of Americans' share our commitment to basic fairness. They agree that there must be fair rules, that we should not unilaterally abandon or break those rules in the middle of the game, and that we should protect the minority's rights in the Senate.

Even in the darkest days of the government's failure to respond to the civil rights revolution, half a century ago, the Senate never tried to allow a bare majority to silence a substantial minority. Yet that is exactly what Republicans want to do now. There simply is no crisis which justifies such a drastic and destructive action.

Who are the nominees the Republican leadership wants confirmed so desperately that they are willing to resort to tactics like these? Obviously, they are doing it in anticipation of the battle soon to come over the nomination of the next Supreme Court Justice. The judges nominated so far who have been filibustered by the Senate show how truly appalling a Supreme Court nominee may be, if the President can avoid a filibuster.

President Bush has said he wants judges who will follow the law, not try to re-write it. But his actions tell a different story. The contested nominees have records that make clear they would push the agenda of a narrow far-right fringe, rather than protect rights important to all Americans.

Priscilla Owen, Janice Rogers Brown, William Myers, Terrence Boyle, and William Pryor would erase much of the country's hard-fought progress toward equality and opportunity. Their values—favoring big business over the needs of families, destroying environmental protections, and turning back the clock on civil rights—are not mainstream values.

As a Texas Supreme Court Justice, Priscilla Owen has shown clear hostility to fundamental rights, particularly on issues of major importance to workers, consumers, victims of discrimination, and women. Neither the facts, nor the law, nor established legal precedents, stop her from reaching her desired result.

Owen was elected to the Texas Supreme Court with donations from Enron and other big companies. She consistently rules against employees, and consumers who challenge corporate abuses. She bent the law in an attempt to deny relief for the family of a teenager, who was paralyzed after being thrown through the sun roof of the family car in an accident. She wanted to reverse a jury award for a woman whose insurance company wrongly denied her claim for coverage of heart surgery. She argued that the Texas Supreme Court should reinterpret a key civil rights law to make it harder for victims of discrimination to get relief.

It's not just Senate Democrats who question Justice Owen's record of judicial activism and her willingness to ignore the law. Even many newspapers that endorsed her campaign for the Texas Supreme Court now oppose her confirmation after seeing how poorly she served as a judge. The Houston Chronicle wrote that Justice Owen ''too often contorts rulings to conform to her particular conservative outlook.'' The paper also noted that ''It's saying something that Owen is a regular dissenter on a Texas Supreme Court made up mostly of other conservative Republicans.''

The Austin American-Statesman wrote that she ''seems all too willing to bend the law to fit her views.'' The San Antonio Express-News opposed her nomination, reminding us that ''[w]hen a nominee has demonstrated a propensity to spin the law to fit philosophical beliefs, it is the Senate's right—and duty—to reject that nominee.''

Her own colleagues on the conservative Texas Supreme Court have repeatedly accused her of the same thing. They clearly state that Justice Owen puts her own views above the law, even when the law is crystal clear. Justice Owen's former colleague on the Texas Supreme Court, our new Attorney General Alberto Gonzales, has said she was guilty of ''an unconscionable act of judicial activism.'' Some claim that Attorney General Gonzales didn't mean this criticism. But this was no single, stray remark. To the contrary, both he and her other colleagues on the Texas Supreme Court have repeatedly noted that she ignores the law to reach her desired result.

In one case, Justice Gonzales held that Texas law clearly required manufacturers to be responsible when retailers sell their defective products. He wrote that Justice Owen's dissenting opinion would ''judicially amend the statute'' to let the manufacturers off the hook.

In a case in 2000, Justice Gonzales, joined by a majority of the Texas Supreme Court, upheld a jury award holding that the Texas Department of Transportation and the local transit authority were responsible for a deadly auto accident. They said that the result was required by the ''plain meaning'' of Texas law. Justice Owen dissented, claiming that Texas should be

immune from these suits. Justice Gonzales again stated that her view misread the law, which he said was ''clear and unequivocal.''

In another case, Justice Gonzales joined a majority opinion that criticized Justice Owen for ''disregarding the procedural limitations in the statute,'' and ''taking a position even more extreme'' than was argued by the defendant in the case.

In another case in 2000, private landowners tried to use a Texas law to exempt themselves from local environmental regulations. The court's majority ruled that the law was an unconstitutional delegation of legislative authority to private individuals. Justice Owen dissented, claiming that the majority's opinion ''strikes a severe blow to private property rights.'' Justice Gonzales joined a majority opinion criticizing Justice Owen's view, stating that most of her opinion was ''nothing more than inflammatory rhetoric which merits no response.''

In another case, Justice Owen joined a partial dissent that would have limited the right to jury trials. The dissent was criticized by the other judges as a ''judicial sleight of hand'' to bypass the constraints of the Texas Constitution.

For the very important D.C. Circuit, the President has nominated another extreme right-wing candidate. Janice Rogers Brown's record on the California Supreme Court makes clear that—like Priscilla Owen—she's a judicial activist who will roll back basic rights. When she joined the California Supreme Court, the California State Bar Judicial Nominees Evaluation Commission had rated her ''not qualified,'' and ''insensitive to established legal precedent'' when she served on the state court of appeals.

All Americans, wherever they live, should be concerned about such a nomination to this vital court, which interprets federal laws that protect our civil liberties, workers' safety, and our ability to breathe clean air and drink clean water in their communities. Only the D.C. Circuit can review the national air quality standards under the Clean Air Act and national drinking water standards under the Safe Drinking Water Act. This court also hears the lion's share of cases involving rights of employees under the Occupational Safety and Health Act and the National Labor Relations Act.

Yet Janice Rogers Brown's record shows a deep hostility to civil rights, to workers' rights, to consumer protection, and to a wide variety of governmental actions in many other areas—the very issues that predominate in the D.C. Circuit.

Perhaps most disturbing is the contempt she has repeatedly expressed for the very idea of democratic self-government. She has stated that ''where government moves in, community retreats [and] civil society disintegrates.'' She has said that government leads to ''families under siege, war in the streets.'' In her view, ''when government advances . . . freedom is imperiled [and] civilization itself jeopardized.''

She has criticized the New Deal, which gave us Social Security, the minimum wage, and fair labor laws. She's questioned whether age discrimination laws benefit the public interest. She's even said that ''Today's senior citizens blithely cannibalize their grandchildren because they have a right to get as much 'free' stuff as the political system will permit them to extract.'' No one with these views should be confirmed to the Federal court and certainly not to the Federal court most responsible for cases affecting government action. It's no wonder that an organization seeking to dismantle Social Security is running ads supporting her nomination to the second most powerful court in the country.

Janice Rogers Brown has also written opinions that would undermine civil rights. She has held, for example, that the First Amendment prevents courts from granting injunctions against racial slurs in the workplace, even when those slurs are so pervasive that they create a hostile work environment in violation of Federal job discrimination laws. In other opinions, she has argued against allowing victims of age and race discrimination to obtain relief in state courts, or to obtain damages from administrative agencies for their pain and suffering. She has rejected binding precedent on the constitutional limits on an employer's ability to require employees to submit to drug tests.

President Bush has selected William Myers for the important Ninth Circuit Court of Appeals. Mr. Myers is a longtime mining and cattle industry lobbyist. He has compared Federal laws protecting the environment to ''the tyrannical actions of King George'' over the American colonies. He has denounced our environmental laws as ''regulatory excesses.'' In the Interior Department, he served his corporate clients instead of the public interest. As Solicitor of Interior, he tried to give public land worth millions of dollars to corporate interests. He issued an opinion clearing the way for mining on land sacred to Native Americans, without consulting the tribes affected by his decision although he took the time to meet personally with the mining company that stood to profit from his opinion.

William Myers is a particularly inappropriate choice for the Ninth Circuit, which contains many of America's most precious natural resources and national parks, including the Grand Canyon and Yosemite National Park, and which is home to many Native American tribes. The Ninth Circuit decides many of the most important environmental disputes affecting America's natural heritage. It has a special role in safeguarding the cultural and religious heritage of the first Americans. It deserves an impartial judge who will deal fairly with environmental claims, not a mining company lobbyist clearly opposed to environmental protections. The Ninth Circuit needs judges who will respect Native American rights, not a judge the head of the National Congress of American Indians has called the ''worst possible choice'' for Native Americans.

The nomination of Terrence Boyle is still pending in the Judiciary Committee. By all appearances, he was chosen for his radical views, not his qualifications. His decisions as a trial judge have been reversed or criticized on appeal more than 150 times, far more than any other district judge nominated to a circuit court by President Bush. The Supreme Court unanimously reversed him in a voting rights case, in which Justice Clarence Thomas wrote that he had ignored established legal standards.

In fact, he has made serious mistakes in cases that matter most to Americans' daily lives. Time and again, the conservative Fourth Circuit has ruled that Judge Boyle improperly dismissed cases asking protection for individual rights, such as the right to free speech, or the right of free association, or the right to be free from discrimination, or the right to a fair and lawful sentence in a criminal case. It's no wonder that his nomination is opposed by a broad coalition of organizations nationally and in his home state of North Carolina representing law enforcement officers, workers, and victims of discrimination.

Last, but by no means least disturbing, the President has renominated William Pryor to the Court of Appeals for the Eleventh Circuit. Mr. Pryor is no true ''conservative.'' He has pushed a radical agenda contrary to much of the Supreme Court's jurisprudence over the last forty years, and at odds with important precedents that have made our country a fairer nation.

Mr. Pryor has fought aggressively to undermine the power of Congress to protect civil rights and individual rights. He's tried to cut back on the Family and Medical Leave Act, the Americans with Disabilities Act, and the Clean Water Act. He's been contemptuously dismissive of claims of racial bias in the application of the death penalty. He's relentlessly advocated its use, even for persons with mental retardation. He's even ridiculed the current Supreme Court justices, calling them ''nine octogenarian lawyers who happen to sit on the Supreme Court.'' He can't even get his facts right. Only two of the nine justices are 80 years old or older.

Mr. Pryor has criticized Section 5 of the Voting Rights Act, which helps ensure that all Americans can vote, regardless of their race or ethnic background. He's even called the Voting Rights Act, which has been repeatedly upheld by the Supreme Court, ''an affront to federalism.'' His hostility to voting rights belongs in another era—

not on a federal court. As Alabama's Attorney General, in a case involving a disabled man forced to crawl up the courthouse stairs to reach the courtroom, Mr. Pryor argued that the disabled have no fundamental right to attend their own public court proceedings. His nomination was rushed through the Committee despite serious questions about his ethics and even his candor before the Committee.

History will judge us harshly in the Senate if we don't stand tall against the brazen abuses of power demonstrated by these nominees. The issues at stake in these nominations go well beyond partisan division. The basic values of our society—whether we will continue to be committed to fairness and opportunity and justice for all—are at issue.

Many well-qualified, fair-minded nominees could be quickly confirmed if the Bush administration would give up its right-wing litmus test. Why, when there are so many qualified Republican attorneys, would the President choose nominees whose records raise so much doubt about whether they will follow the law? Why force an all-out battle over a few right-wing nominees, when the nation has so many more pressing problems, such as national security, the economy, education, and health care?

Our distinguished former colleagues, Republican Senator David Durenberger and Democratic Senator and Vice President Walter Mondale, recently urged the Senate to reject the nuclear option. They reminded us that ''Our federal courts are one of the few places left where issues are heard and rationally debated and decided under the law.''

Five words they used said it all—''let's keep it that way.'' To reach the goals important to the American people, let's reject the nuclear option, and respect the checks and balances that have served the Senate and the nation so well for so long.

The PRESIDING OFFICER. The time of the minority has expired.

The Senator from Nevada.

FILIBUSTER OF JUDICIAL NOMINEES

Mr. ENSIGN. Mr. President, I would like to think that if some of the finest and most respected jurists in our country's history were nominated today to sit on the Federal bench, their successful confirmation by the Senate would be guaranteed. I am talking about jurists such as Chief Justice John Marshall, Chief Justice Earl Warren, and Justice Oliver Wendell Holmes. Imagine where we would be today without their bright, insightful legal minds.

Unfortunately, in today's bitter and partisan atmosphere, I don't see how any of them would make it through this grueling, humiliating, and endless judicial nomination process. That is a disturbing thought. We must put an end to this mockery of our system before it becomes impossible to undo the damage.

I am sure a lot of Americans believe this is politics as usual. It is not. Filibustering of judicial nominations is an unprecedented intrusion into the longstanding practice of the Senate's approval of judges.

We have a constitutional obligation of advise and consent when it comes to judicial nominees. While there has always been debate about nominees, the filibuster has never been used in partisan fashion to block an up-or-down vote on someone who has the support of a majority of the Senate.

In our history, many nominees have come before us who have generated strenuous debate. Robert Bork and Clarence Thomas are two of what the other side would consider more controversial figures to be considered for a position on the Federal bench. It is important to note that both of these men, despite the strong feelings they generated from their supporters and their detractors, received an up-or-down vote. Now, sadly, due to the efforts of the Democrats in the Senate, the 214-year tradition of giving each Federal candidate for judge a solid ''yea'' or ''nay'' is at risk.

Senate tradition is not the only thing at risk here, though. The quality of our judiciary is at grave risk. It is and should continue to be an honor to be nominated to serve on the Federal bench. Nominees are aware of the rigorous process that goes along with their nomination—intense background checks and the opening of one's life history to the public. However, highly qualified and respected nominees do not sign on to being dragged through a bitter political battle. If we allow the filibustering of nominees to continue, I fear that those highly qualified candidates will decline to put themselves and their families through the abyss of this process. The American judicial system will be sorely hurt should this happen. And it already happened with Miguel Estrada, who was an outstanding nominee. We cannot afford to let this happen and let it continue.

I believe that anyone who has been nominated by the President and is willing to put his or her name forward and be subjected to the rigorous confirmation process deserves a straight up-or-down vote on his or her nomination in both committee and on the floor of the Senate. Guaranteeing that every judicial nominee receives an up-or-down vote is truly a matter of fairness. It doesn't mean that there is no debate or opportunity to disagree. It does mean fair consideration, debate, and a decision in a process that moves forward.

I say that today with the Republican President in the White House and a Republican majority in the Senate, but I know we will uphold the up-or-down vote when we eventually have Democrats back in control. That is because this is the fairest way to maintain the health of the judicial nomination process and the quality of our courts.

Our Founding Fathers set up a form of Government with three separate branches, and they were all very distinct. The current state of affairs in the Senate threatens the very balance of power. Although the up-or-down vote is critical to maintaining that balance, there is a need to reform the committee process as well. Each committee should discharge nominees, whether it is with a positive or a negative vote. But at some point, that nominee deserves to have a vote of the full Senate on the floor. The committee should not have the power to kill a nominee on its own.

I sincerely hope we can put an end to this crisis, judge judicial nominees on the basis of their character, qualifications, and experience, and return to fulfilling our constitutional duty.

I understand that the majority leader has just put forward a proposal to correct the unfair treatment of judges. Senator FRIST's proposal will ensure that each and every nominee will be treated fairly. It will ensure that each nominee will receive a fair up-or-down vote, whether a Republican President or a Democrat President nominates him or her.

I commend Senator FRIST for his leadership. His proposal ensures future nominees are treated fairly. I urge my colleagues to adopt Senator FRIST's proposal.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I would like to take a few moments to discuss the issue that seems to be the major topic of debate now in the Senate. It is that of the question of how we approach the nomination and confirmation of judges.

Frankly, I think that the level of hostility and the level of debate that has increased around this issue is becoming alarming to the American people—not so much necessarily because of their objection or concern about the various positions being taken but because of the concern about how the Senate is running, the question of whether we in the Senate are working on the business of the American people in a way that is in the best interest of public discourse, or whether the dynamic in the Senate is deteriorating into a highly partisan, highly personal, and highly difficult climate in which we are increasingly facing gridlock.

Mr. President, I would like to go back through the debate because a lot has been said about what the role of the filibuster is as we approach the issue of confirmation of judges. I believe it is important because, frankly, I notice in some of the advertising that

is going on across the country right now that the argument being made seems to be that the filibuster was established in the Constitution by our Founding Fathers as one of the checks and balances of our system.

The reality is that from 1789 until 1806, the Senate did not have anything close to a filibuster. In fact, the Senate had the traditional motion for the previous question in its rules, which, for those who don't follow these things closely, meant that a majority could close debate on any issue when there was a motion to proceed to a vote. The majority could close the debate.

So, clearly, there is no mention of the filibuster in the Constitution and, clearly, until at least 1806 there was no possibility for utilization of the filibuster in the Senate. Even after 1806, when for other reasons the Senate eliminated the motion for the previous question, the idea of filibustering never really took hold in the Senate until much later. In fact, it was about the 1840s when a group of Senators realized that under the rules there was no way for them to be stopped from debating, and they basically started the idea of filibustering and approaching the management of issues in the Senate by utilization of the tool of filibustering—namely, refusing to stop debating and let the Senate move on to a vote.

Even though that practice started in the 1840s, it was used very sparingly and over the years really wasn't that big of a problem. When Senators tried it, they worked out issues they were raising, and issues were resolved. The Senate never really adopted a cloture rule until the 1917 timeframe. The cloture rule, for those who don't follow Senate procedure that closely, is the rule by which the Senate tries to stop a filibuster. It has been in different forms over the years, but in its current form—since 1917, it has evolved—it requires 60 votes in the Senate to adopt cloture, which means that we will then go into a process which will eventually wind down debate on a bill and move us to a point where we can vote on a matter. So even in 1917, when the original cloture rule was adopted, it didn't really mention judicial nominations, because at that point the Senate didn't really contemplate the use of the filibuster on judicial nominations.

The cloture rule was rewritten in 1949. At that time, it was expanded to include all matters which technically included judicial nominations. But even after 1949, filibusters were rarely, if ever, even tried on judicial nominations; and when they were tried on judicial nominations, with one exception, when both parties supported the filibuster, even when filibusters were tried on judicial nominations, they were stopped. Never, until this last Congress, the Congress previous to this, with that one exception I mentioned when both parties supported it, did the Senate support the utilization of a filibuster on the nomination of a judge.

In the last couple of years, we have seen an increasing and frequent utilization of filibusters for nominations on the judiciary. That is what brought us to this battle right now. The question the Senate is grappling with and which the American people, I believe, are justifiably very concerned about is, What should the role of the Senate be? What should the procedure of the Senate be when considering judicial nominations?

That takes us, in my opinion, back to the U.S. Constitution. In article II of the U.S. Constitution, which is the core around which this debate should focus, it provides that the President shall nominate and, by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court and all other officers of the United States, which includes judges of the other courts. The President shall nominate and, by and with the advice and consent of the Senate, shall appoint. So the question there is, Does the Constitution absolutely prohibit a filibuster? No. Does the Constitution absolutely authorize filibusters? No. The Constitution simply says the President shall nominate and, by and with the advice and consent of the Senate, he shall appoint judges.

Our job now is to determine how to run the rules of the Senate in the closest accommodation to the spirit of the Constitution of the United States.

The question, as I see it, is, Does the Constitution contemplate that the President is entitled to a vote on his nominees? And if so, is that vote a majority vote or is it a vote of a supermajority, like 60, or two-thirds? It has been argued on the floor today that all the Constitution contemplates is some kind of a vote, whether it be a 60-vote supermajority, a two-thirds vote, or a majority vote, that the Senate can decide, but all the Constitution contemplates is some kind of a vote.

I disagree. I believe the Constitution contemplated that by a majority vote the Senate would give its advice and consent. I believe the best way to operate this Senate is to utilize the principle of advice and consent as one in which we should give the President an up-or-down vote on those nominees who are able to get sufficient support to get out of the Judiciary Committee to the floor of the Senate. As I say, historically, never, until the last Congress, has the Senate operated in any other way.

There are those who have tried filibusters, but never have just 41 Senators stood solidly together and said: No, we will not allow a nominee who has enough majority support to get to the floor of the Senate to have a vote.

There are those who are saying the President is trying to pack the Court and that the President is trying to change the dynamics of the judiciary with people who are out of the mainstream. Again, I do not believe anything could be further from the truth.

There has been a lot of debate on this floor over the last few weeks about these nominees, but let's look at a couple of these nominees to see what it is we are talking about.

One of the filibustered nominees is Justice Priscilla Owen. She has served on the Texas Supreme Court since 1995. In 2000, Justice Owen was overwhelmingly reelected to a second term on that court, receiving 84 percent of the public vote. I do not think that is out of the mainstream.

During her 2000 election bid, every major newspaper in Texas endorsed her. Before joining the supreme court, she was a partner with a well-respected Texas law firm, having practiced law for 17 years.

Justice Owen has significant bipartisan support in Texas, including three former Democratic judges on the Texas Supreme Court and a bipartisan group of 15 past presidents of the State bar of Texas.

Whether one agrees or disagrees with her philosophy, one cannot argue that she is not mainstream. In fact, a bipartisan group of 15 former presidents of the State bar of Texas—that bipartisan group about which I talked—states:

> Although we profess different party affiliations and span the spectrum of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate to appointment to the Fifth Circuit [Court of Appeals].

They go on to say she has all the qualities to be a good independent judge.

Another who is being attacked is the Honorable Janice Rogers Brown, a nominee from the Supreme Court of California to be on the District of Columbia Circuit Court. In her 9 years on the California Supreme Court, Justice Brown has earned the reputation of being a brilliant and a fair justice who rules on the law.

Her nomination has received broad support from across the political spectrum, and she also stood for reelection in the California judicial system where she received 76 percent of the public vote in California the last time she was on the ballot, which belies the notion that she could be out of the mainstream.

She has dedicated over 25 years of her legal career to public service and she, too, is supported by a broad array of bipartisan jurists and legal scholars in her State.

Let me talk about one more, a nominee from my State, the State of Idaho, William Myers, who has been nominated to the Ninth Circuit Court of Appeals. Bill Myers is a former Solicitor of the Department of Interior and is a highly respected attorney who has extensive experience in the fields of natural resources, public lands, and environmental law. He actually was confirmed by this Senate by unanimous consent when he was confirmed to serve as Solicitor of the Department of Interior.

Before coming to the Department of Interior, he practiced at one of the most respected law firms in the Rocky Mountain region, and he has a rich history of service in public offices. He is a

very avid outdoorsman and conservationist and has himself wide support from bipartisan interests. In fact, the former Democratic Governor of Idaho, Cecil Andrus, indicated he is one who deserves our support, has the integrity, judicial temperament, and experience to be a good judge.

Former Democratic Wyoming Governor Mike Sullivan, who also served as U.S. Ambassador to Ireland under the Clinton administration, endorsed Mr. Myers, saying he is ''a thoughtful, well-grounded attorney who has reflected by his career achievements a commitment to excellence.''

My point in reviewing these three candidates, because my time is limited today, is to show that although there is an argument that the President is trying to submit candidates who are not in the mainstream, the argument does not fit the facts. What is happening is President Bush is being denied the opportunity for even a vote on his nominees to be the judges on the various circuit courts of this country.

I think we ought to come back to the Constitution and to the initial question which I pose: What does the Constitution of the United States contemplate in terms of how the Senate should operate when it fills its role as providing advice and consent in the nomination and appointment of judges?

I think it is very important to note that what we are debating is not the elimination of the filibuster. We have an Executive Calendar and a legislative calendar in the Senate, and the proposal is to address the manner in which filibusters are utilized only on a portion of the Executive calendar. The Executive calendar is that part of our business in which the Senate deals under the Constitution with the executive business of the President with the Senate.

We are suggesting our rules should contemplate that when the Constitution gives the President business to conduct with the Senate and says the Senate should give its advice and consent on the President's nominations, the Senate's rules should not prohibit the President from getting a vote.

All we are asking, not that these nominations be all unanimously approved or automatically accepted, is the President get a vote up or down on his nominees.

It is my hope we will not have to get to the point where on the Senate floor we have a protracted and bitter battle. We have an opportunity to discuss these matters among ourselves and try to do what the American people expect of us, and that is to bring more comity to the Senate in our individual relations among each other.

I believe there is room for finding a compromise that can resolve this issue in a way that will bring dignity and respect to the Senate and will enable us to fulfill the spirit of what the Constitution contemplates when it says the Senate should provide its advice and consent to the nominations of the President.

Mr. President, I thank you for my time, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, how much time remains in morning business on this side?

The PRESIDING OFFICER. There is 6 minutes 25 seconds remaining.

Mr. BROWNBACK. Mr. President, I yield myself such of that time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I am going to follow on the presentation of my colleague from Idaho on the issue of judges because it is the pending issue before the Senate. We are on the highway bill, and it is important legislation, but this issue is what has captured the attention of this body, the executive branch, and people across the country: the problem of getting judges approved.

My colleague from Idaho well portrayed some of the nominees and what is taking place. I will point out a couple of common issues. I serve on the Judiciary Committee. We have had these individuals in front of us, in some cases, for 4 years. They are well known to this body, to the people here, and they have been fully vetted. The reason they are at this point in getting through is they are extremely well qualified. There may be philosophical differences with them, but if they are allowed to have a vote, they will be confirmed because they are well qualified. If they were not well qualified, if they were outside of the mainstream of judicial thought, they would not be confirmed and we would not be debating this issue.

We have the Democratic Party deciding: OK, we are going to stop them. Actually, they are well qualified and we cannot stop them on a majority vote; we are going to stop them on a filibuster and require a supermajority vote.

They have taken that tactic. It is unprecedented. They have taken that tactic which is within the rules of the Senate.

I want to point out what is going to happen if they persist in that tactic because then they put it back on us or the President to take action in response.

We can say we are not going to do anything, we are just going to let an unprecedented filibuster take over, to which a lot of us are saying that is not right, that is not our job. This may force the President to do a whole group of recess appointments, a right he has under the Constitution. He has been waiting for 4 years for some of these nominees. He would rather not do that, I am sure. I have not talked with him, but I am sure he would rather not do that. He can say: If you are not going to let my judges through, you are supposed to give advice and consent, and if you are not going to give advice and consent, then this is the action I have to take. Or it is going to force us to change the filibuster rule on the issue of judges because of the unprecedented use and requirement of a supermajority.

What I am pointing out is, while the Democrats can take this tactic, it is going to force a response which would be legal by a Republican majority in the Senate, by the President, but all of which is unsatisfactory and not right. We ought to be voting on these judges.

We have seen the numbers. I think if the numbers were not so extreme, we would not feel so forced into a corner, but the numbers are extreme. The Senate has accumulated the worst circuit court confirmation record in modern times, thanks to this partisan obstruction. Only 35 of President Bush's 52 circuit court nominees were confirmed, which is a confirmation rate of 67 percent. In comparison, President Johnson's confirmation record in his first term in office was 95 percent, as were 93 percent of President Carter's nominees.

The other side may point to the district court, the trier of fact, level of confirmations. Yes, those are there, but the circuit courts are the ones that get to review and interpret the law, and we are trying to get judges who will interpret and not write the laws.

A number of people are willing to allow judges to write laws. I am not one of those. That is our job. That is my constitutional role, that is my constitutional requirement, and the oath I took to the Constitution to write the laws and not to pass them off to the judiciary or to say: Well, it is too tough for us, let's let it pass through there.

Plus, what irritates so many people is the use of the judiciary in so many areas that are so personal and deeply felt within this society. People are saying this is not right, this is something that should come in front of legislative bodies. Maybe it will take several election cycles for the body politic to get in a position to resolve these issues, and that is fine, it should take time on these major issues before us.

Also, I do not want to just focus on the numbers. We should remember these nominees are not some sort of political prop. These are good people with careers and commitment to public service, the quality and depth of which is enviable.

Also, I note that a solid majority of people agree strongly with the President's position that he should pick judges who strictly interpret the law rather than legislating from the bench, what the judges think the law should be. Ignoring this mandate, some in this body, spurred on perhaps by outside interest groups, are threatening yet again to filibuster these judge nominees.

We are now embarking on a dangerous area if we talk about changing the role of the judiciary in this society and blocking nominees because they are going to stay with the interpretation of the law and not write law. I

think we should be thinking long and hard before we go with judges and give a license for them to be more expansive in their role in the legislating arena. That is wrong. It is not in the Constitution. It is not the division of powers. We should have judges who strictly interpret. That is what these nominees are about and much of the base of this fight is about.

I urge my colleagues on the other side of the aisle to think about what they will force in response by this tactic, and there will be a response to this tactic. I do not think it is wise for this body to move toward that route.

I thank the Chair for this time. I yield the floor and yield back the remainder of time.

The PRESIDING OFFICER. The majority time has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete Substitute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, the highway bill which is presently before us comes to us pursuant to a budget agreement that was passed last Friday morning. In fact, I guess it was passed about 1 a.m. Friday morning. That budget agreement had in it language that said there would be $284 billion spent on highways under this highway agreement. It also had language in it referencing something which is called a reserve fund which essentially says if legitimate offsets could be found, and if they were determined to be legitimate by the chairman of the Budget Committee, then that number could be increased by the amount of those legitimate offsets.

Initially, when the bill was brought forward it was brought forward at $284 billion. It was brought out of committee at $284 billion. On Monday during the wrapup session, by unanimous consent, that bill, which had already been subject to a substitute, was hit with another substitute that had 1,300 pages in it. Within those 1,300 pages—and they are not absolutely sure of this number yet—somewhere in the vicinity of $11.5 billion of new spending out of the highway trust fund. That in and of itself was inconsistent with the budget resolution that had been passed last Friday in that it was $11.5 billion over that resolution and was therefore out of kilter relative to the allocation given to the committee, the Public Works Committee.

In addition, within those 1,300 pages which were submitted by substitute, by unanimous consent, on Monday night, one legislative day after the budget had been passed, were representations that the offsets had been placed in to pay for the $11.5 billion. There was no referral of those offsets to the Budget Committee as was required under the law that had just been passed on the prior legislative day in the reserve fund of that law. In fact, the offsets as represented first were offsets which would apply to the general fund, not to the highway fund, and therefore created a violation of the Budget Act. But second were offsets which do not pass what we might refer to as the ''straight face'' test. In other words, they were not legitimate offsets. In fact, one of the offsets which was referred to has been used 14 times in the last 2½ years—14 times. Yet it was referred to with a straight face, although I am sure there was a smile behind it, as a legitimate offset.

It would be humorous were it not for the fact that it adds a $11.5 billion burden to the taxpayers, which on the prior Friday we had said we were not going to do to the taxpayers. So the bill as presently pending under the substitute, as put forward on Monday night, the 1,300 pages which are so extensive that CBO, which is the scorekeeper around here, has even had trouble figuring out what is in it, that bill is presently in violation, or that substitute is in violation of the Budget Act. It is quite simply unequivocally, unquestionably a budget buster.

One must ask the very obvious question that when the Senate passes a budget on Friday of the legislative week, if on the Monday of the next week, which amounts to the next legislative day, if that next Monday you are going to by unanimous consent, late in the afternoon, during wrapup, put forward a substitute which includes in it a budget-busting expansion of spending with a euphemistic and illusory statement of offsets—self-serving, also, by the way—if we are at all serious as a Congress about disciplining ourselves when it comes to protecting the American taxpayer relative to the rate of growth of the Federal Government and Government expenditures. It would appear that if this substitute is allowed to survive in its present form, with this additional money being spent, which exceeds significantly what was agreed to in a budget that was passed the day before, the answer to that question would have to be, regrettably, no, we are not.

In addition to that problem, there is the issue of the President. Now, rolling the Budget Committee around here is sort of good entertainment, and it happens, unfortunately, too regularly. But rolling the President of the United States, and especially when the party of the President of the United States decides to roll the President of the United States, is something a little more significant. The President has said 284 is the number, the President has said even if there are offsets, 284 is the number and we are not going above that number. Yet a bill is reported to the floor that met that number with the clear, obvious understanding now that it was going to be gamed, that 284 number was going to be ignored. And now we have a bill that is probably 295, 296, maybe 300. We are just not sure. We are talking billions, folks, just to put it in context. That is not $296. That is $296 billion, which is a lot of money.

So the President has made it very clear—he has made it clear in his press conference, his administration has made it clear, the director of OMB has made it clear, and in an agreement with the House leadership there was a clear understanding the highway bill would spend $284 billion, not $296 billion, whether it was offset or not. Yet that position of the President is being—well, it is being more than ignored. It is being run over by a bulldozer or maybe a cement mixer or maybe a paver. But in any event it is being run over. And that seems a little bit inappropriate, slightly inappropriate to me. Since the President has decided to try to exercise some fiscal discipline, it would seem that we as a party that allegedly is a party of fiscal discipline would follow his lead rather than try to run him over.

So you have two problems. You have the problem of a Republican Senate running over a Republican President because we want to spend more money—or at least some Members of the Senate do—and then you have the Republican Senate running over the Republican budget because some members want to spend more money. Then you have this gamesmanship, I guess would be the best term for it, which occurred on Monday night when you take 1,300 pages and throw it in under unanimous consent and put in it language which raises spending by $11.5 billion and has these proposed offsets which do not pass the straight face test.

So you wonder about that and you have to ask yourself where are we really going if we can't even discipline ourselves on something like this. You have to remember this bill did not start out at 284. It started out 2 years ago at, I think it was 219, maybe it was 220, maybe it was 230. It was in that range. Then last year, through another sleight of hand dealing with the funding mechanism, we shifted—we didn't but some did—$15 billion or $18 billion—I do not recall exactly—out of the general account over to the highway account claiming that there was no revenue impact, that this was an offset, of course, putting an $18 billion hole in the general fund in exchange for covering up with the extra spending

in the highway fund. Then that, with a couple other manipulations, got us up to this 284 number which means that we are already in the hole on this bill relative to the budget approximately $18 billion before this next exercise of adding $11.5 billion on top of it.

It is my obligation, obviously—I end up drawing the short straw around here by some degree by being Budget chairman, but it is an obligation I take on because somebody has to do it and it should be done—to be sort of the person who comes to the floor and says: What the heck are we doing? We pass a budget on Friday which says we are going to control spending, says we are going to limit highway spending to $284 billion, and then on Monday in wrapup, with 1,300 pages of obfuscation, there is thrown in $11.5 billion of new spending, and thrown in are a lot of illusory and baseless offsets. What the heck are we doing?

Well, in the context of what the heck are we doing, I have at least the right to make us vote on this, at least the right to say to my fellow colleagues, if you want to do it, do it in the open a little bit. The way we should have done it, of course, was the way it was originally structured. There should have been a straight up-or-down issue of whether, A, this additional $11.5 billion was a good idea to spend over the budget; or, B, properly offset. That is not now possible to do. I admit the folks who thought this out were creative and they structured it so that is no longer possible to do. It was possible to do on Monday until there was wrapup but not possible to do now.

That is the way it got structured, so I am left with very few options.

Mr. President, I reserve the right to retain the floor for the purposes of discussing with the leader of the bill the timing on this next vote. Is it the leader's position that he would want to vote at 11:15?

Mr. INHOFE. Mr. President, in response to the distinguished chairman, yes, anytime after 11:15 and before 12 o'clock.

Mr. GREGG. Well, I will make the motion now and then ask we be in a quorum call until 11:15.

Mr. INHOFE. I would rather not do it because I will make a motion to waive after the Senator makes the point of order. That is debatable and I would like to make it.

Mr. GREGG. We can just set the vote at 11:15 and you can debate it.

Mr. INHOFE. Sure. That is fine.

Mr. GREGG. Mr. President, I ask unanimous consent that upon my making the point of order, should the chairman make a motion to waive that point of order, that vote be at 11:15 with the yeas and nays being considered as being ordered.

Mr. LAUTENBERG. Reserving the right to object, will the Senator repeat the unanimous consent request?

Mr. GREGG. I am asking that we move to this vote at 11:15, but if the Senator needs 5 minutes, we can make it 11:20.

Mr. LAUTENBERG. Make it 11:30. Then I would have no problem with it, and we will try to use time as quickly as we can.

Mr. GREGG. I would ask that the time be evenly divided.

Mr. LAUTENBERG. Yes. No objection.

Mr. INHOFE. Reserving the right to object.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. For clarification purposes, are we now talking about a vote at 11:30; is that correct?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe I reserved the floor.

The PRESIDING OFFICER. The Senator from New Hampshire does have the floor. The Senator from New Hampshire is recognized.

Is there an objection to the vote occurring at 11:30 with the time equally divided? Is there any objection to that restated request?

Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I make a point of order that the pending substitute increases spending in excess of the allocation to the Committees on Environment and Public Works, Banking and Commerce. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I move to waive any relevant provisions of the Budget Act for the substitute and the bill.

Mr. GREGG. The yeas and nays have been ordered, as I understand it.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there can be honest differences of opinion. The way this has worked historically, and I have had the experience on this type of legislation for 19 years now, is that we come up with a bill. The bill we came up with is based on a formula. It is not a pork bill. It is a spending bill because it is a spending bill on infrastructure for America.

My job, and the job of the ranking leader, Senator JEFFORDS, is to come up with a bill that meets the infrastructure needs of America. Then we look to the Finance Committee to help us to find the funds to finance it. I am not about to pass judgment, as others appear to be readily willing to do, to cast disparaging remarks on the nature of the offsets or the nature of the product of the Finance Committee. I know we came up with a good bill. It is one that is not nearly as high, in terms of the amount of money that would be spent, as the needs. In fact, it has been looked at and evaluated that if we are to pass a bill, even at the $295 billion over the 6-year period, of which 5 years are remaining, that it would not even maintain what we have today.

I also want to correct something else because the very distinguished chairman of the Budget Committee is certainly knowledgeable in all of these areas. He talks about being conservative and talks about doing these things in a proper and appropriate way. Well, I would challenge anyone to match my conservative performance and credentials, and yet I have always said that when one comes to this body there are two areas where conservatives are big spenders. One is in national defense and one is in infrastructure. That is what we are supposed to be doing. We are supposed to be building the infrastructure and improving the infrastructure.

This bill is not just any type of bill that is coming along. This is a bill that is a matter of life and death. We put together a formula to determine how the distribution between the States should take place. In that formula, one of the elements is the mortality rate on the highways on a per capita basis. Now, if no one is concerned about the number of lives that are lost, quite frankly my State of Oklahoma has more lives lost on the highway than the average State. Consequently, that is one of many determining factors in a formula. The formulas have factors for the donee States and the donor States, the number of miles and, I might even add to my friend from New Hampshire, even covered bridges.

This bill probably could be considered by most people as the most important bill we will have this entire year. It is probably the second largest bill we will have this entire year. It is one that lets us rebuild the infrastructure of America. We all have heard the statistics. There is no sense going over and plowing those fields again, but it is one also that is a huge jobs bill.

I am not one to say that WPA—actually the WPA looks pretty good now after a few years, but I do not look at Government as the ultimate employer. But when they talk about for each billion of new construction it provides 47,000 jobs, it is a huge jobs bill. It is very significant.

Many people are supporting this bill. There are Democrats, Republicans, liberals, conservatives. As a conservative Republican, I wholeheartedly support it. I support it at the higher level because I think that is what we are supposed to be doing.

I am sure there will be those who want to talk a little bit about the product of the Finance Committee. I know the ranking member of my committee, Senator JEFFORDS, wants to make a statement or two. We have between now and the next 25 minutes to discuss this. I just want to assure my friend, the chairman of the Budget Committee, I am very sincere, and I think

we are doing the right thing. While I do not always agree wholeheartedly with the President, I do 99 percent of the time. In this case, I disagreed last year. Last year, when we came up with $318 billion, we should have passed that. I believe the Finance Committee was sincere when they said we had this covered, and it was something that I supported at that time. The President did not support it.

There are a lot of things we pass that I would like to debate and not pay for. This is not one of them. I feel very strongly that we should go ahead. Quite frankly, I do not think the number is high enough, but if this is all we can cover, then I am happy with that. The most important thing is we have to have a highway bill. We are on our sixth extension right now. The States are wondering what we are doing. They have no way of planning in advance. They cannot plan for the next 5 years. All they can do is say: We have another 6-month extension. What will we do for the next 6 months? Then we all miss the construction season. In States such as that of my friend from Vermont, a northern State, and the State of New Hampshire, we have already missed the majority of the construction season. So it is very important that we not continue with extensions and that we get this bill passed. To do this, we already have a cloture motion in effect. We need to get by this motion, and I think we will be doing that.

I yield to the ranking minority member.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today in support of manager's package for the highway bill.

This package, which combines all four titles of the Safe, Accountable, Flexible, Efficient Transportation Equity Act, increases funding for our highways and transit systems by $11.2 billion.

I commend Senators GRASSLEY and BAUCUS for putting together a package that not only increase the resources for our States but does not add to the Federal deficit.

One cannot drive this highway bill on empty. Funding is its fuel, and we need to make sure this bill has a full tank when it leaves the Senate and heads to conference.

The White House argues that the financing of the manager's package is based on gimmicks.

To that I say nonsense.

If Senator GRASSLEY and Senator BAUCUS tell me it is paid for, then I believe them.

Frankly, compared to the funding levels in last year's highway bill, today's package is modest.

The President should be claiming victory and applauding our actions rather than threatening a veto.

This additional funding will mean we can make more roads safer, make sure more Americans face less traffic, and create more jobs.

This additional funding benefits every State, every city, every country and every town. This additional funding makes all the world of difference.

I would yield the floor at this time and offer the Senator from Arkansas such time as he desires to discuss the transportation bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we do want to hear from the Senator from Arkansas, but in fairness, we should go back and forth. The chairman of the subcommittee, Senator BOND, wants to be heard first. Does the Senator from Vermont have an objection to that?

Mr. JEFFORDS. That is fine.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Missouri.

Mr. BOND. How much time do we have remaining?

The PRESIDING OFFICER. Six minutes for the proponents of the motion.

Mr. BOND. I ask that I be given 4 minutes of that, allowing 2 minutes for my colleague on the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, we are once again asking for the support of our colleagues to raise the contract authority or budget authority in the highway bill. We said we were going to do this when we brought it to the floor. Eighty of our Members voted in the Budget Act to allow the Finance Committee to come in with additional resources, which they have done. There has been discussion about the legitimacy of the offsets and the Finance Committee actions. The Joint Tax Committee has scored it. That is the authoritative view. It does not add to the budget. The comments about this being a budget buster are absolutely wrong. These funds are paying for the money we add.

I will explain a little bit of complicated budgetary process. There are two things called the obligation limit, which is the amount that can be spent, the guaranteed amount. Traditionally, we have put a higher number into the bill for what we call budget authority, or what is called contract authority. That is because the highway departments cannot spend all of the money that they contract, and to enable them to spend the $283.9 billion guaranteed spending proposed by the President we have to have a higher contract or budget authority number.

This measure, which was added by the Finance Committee and which is now subject to the point of order, was designed to raise, with a fully offset amount, the spending so that we could provide additional funds for badly needed State roads.

Let me be clear. This amount that was added will enable us to bring all donor States up to 92 cents on the dollar by the end of the period. It will also guarantee those States which are at the bottom of the list in terms of increases to get at least a 15-percent increase. It is imperative that those who joined with us in the 80-vote majority to add the provision allowing the Finance Committee now reaffirm that they believe this money is necessary.

The additional money, contract or budget authority, will not be spent, the obligation limit will increase slightly, but we cannot spend the money the President said we should spend, the $283.9 billion, unless we increase the contract authority. Obviously, that's lots of confusion but that is where we are.

I urge my colleagues who understand, as the chairman and ranking member of the committee and my colleague Senator BAUCUS on the committee understand, we have to have this money for safety, for economic development, for continued growth and the health of our economy.

I yield the floor and reserve the remainder of our time for use by my colleague.

The PRESIDING OFFICER. Who yields time? The Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise to offer my support for the motion to waive the budget point of order and also to support the efforts of the Senator from Oklahoma and urge my colleagues to also support those efforts. This legislation is 2 years overdue. I am very pleased we are finally making some headway on getting this done. Forcing our States to operate under the uncertainty caused by short-term extensions is no way to govern. We are now in the sixth extension, and it is my hope that we are able to complete our work in the Senate and complete the conference before the current extension expires at the end of the month.

I also thank Senator INHOFE, Senator BOND, Senator JEFFORDS, and Senator BAUCUS for their very hard work on this bill and all the time they have spent and their efforts in working in such a bipartisan way. I also thank Senator SHELBY and Senator SARBANES on the hours they have put in on the transit portion, and I thank Senators LOTT and INOUYE, as chairman and cochair of the Commerce Committee Subcommittee on Surface Transportation and Merchant Marine for their work on the safety portions of this bill.

Economic development is a very important part of any infrastructure development—we talked about that a little bit this morning already—but not at the expense of the safety of families. This bill enhances the safety of our roadways.

As a member of the Commerce Committee, I was very happy to have the opportunity to play a role in developing the safety titles. It is good legislation that will increase the safety of our highways for all Americans, and it is bipartisan legislation, developed with the input of safety groups, industry, the administration, as well as State and local officials.

Every great nation in the history of the world has flourished because of improvements to its infrastructure. If you look at the great periods of development and invention in the world, almost all of them have coincided with advances in transportation options, whether it is safely moving people, expanding trade, or increasing contact between cultures. My constituents remind me all the time about the importance of roads and relieving congestion and creating economic growth—virtually every time I go to Arkansas. Last week when I was there, people were asking me, when in the world are you going to get the highway bill done?

Our constituents are very smart. As I travel the State I hear the same four things over and over, and I believe they are right. They tell me the four things we must accomplish in this highway bill are, No. 1, we must produce a highway bill that addresses critical infrastructure needs that are not currently being met; No. 2, we must produce a highway bill to spur economic development and the creation of jobs.

How is my time doing, Mr. President?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I ask unanimous consent for 2 more minutes.

Mr. GREGG. Mr. President, I yield the Senator 2 minutes off of my time, even though he doesn't appear to be agreeing with me.

Mr. PRYOR. I will make it quick. I thank the Senator for yielding the time.

No. 3, we must produce a highway bill to increase the safety of our transportation system for American families and, No. 4, we must produce a highway bill that anticipates future needs.

I could go on and on about how important it is for job creation, which we talked about a few moments ago; about how much more congested our highways are today as opposed to 10 years ago, and how congested they will be in 20 years from now.

I offer my support and encourage my colleagues to support the efforts of Senator INHOFE and others as we go through this very important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to take this opportunity to respond to the points raised to justify the budget point of order. The reason I want to do that now is because there are some things that are not clear about this legislation. I tried to make them clear in my remarks yesterday, but it is obvious that if they had been clear, there would not have been a budget point of order.

One of the points made by the chairman of the Budget Committee and other Members of the Senate is that the Senate highway bill is larger than the President's request. It was alleged that Senate authorizers ''snuck in'' a change in their substitute, without a separate vote, to increase the bill's level of funding above $284 billion. Senate budget staff is correct that the amendment on the Floor that is pending is larger in size than the bill requested by the President. Senate leadership, all authorizing committees, and the Finance Committee were well aware of this fact and made a determination to offer a substitute amendment in excess of the President's request. This makes perfect sense and, of course, is in keeping with separation of powers and the fact that the President, under our Constitution, proposes and the Congress, under the Constitution, disposes.

A majority of the Senate wishes to provide more infrastructure resources than the executive branch. The substitute bill, with increased funding, is completely offset or revenue-neutral. As a matter of fact, the bill contributes positively and substantially towards deficit reduction. As indicated in my statement yesterday, the administration and the budgeteers should focus on deficit reduction rather than on the top-line spending number. The Senate continues to offset legislation and, by so doing, exercises fiscal restraint, a fact being continuously ignored by some in this body.

Another point made is that provisions passed in the JOBS bill last October—sometimes referred to as FSC/ETI bill—signed by the President in October, that somehow the provisions we had in that bill relating to fuel fraud did not increase general fund receipts or even things dealing with other tax provisions did not increase general fund receipts. I speak of acronyms that we used last fall that may not be familiar to people now that we are by that legislation. But we constantly talked about the ethanol provisions with the acronym, VEETC, volumetric ethanol excise tax credit, and fuel fraud provisions that were enacted in the JOBS bill which other Members of this body have alleged, and I quote here, ''have made the highway trust fund healthier by $2 to $3 billion annually only by definition, since merely moving around deck chairs has not changed the Federal Government's bottom line.''

That is a serious accusation considering how careful we were over a period of months last year not only to work on the VEETC provisions to bring in money to the Federal Government that was fraudulently not being paid but also to make sure that we did it in a fiscally sound way.

This is my answer to that accusation. Last year the JOBS bill enacted ethanol and fuel fraud provisions that increased projected receipts to the highway trust fund by $17 billion during the period of the highway bill reauthorization, 2005 to 2009. These provisions were also included in last year's transportation bill but had to be enacted instead in the JOBS bill after it became clear that we would not get a conference agreement on the highway bill.

That is an unfair accusation that somehow all this work that we went through is just moving around deck chairs but has not changed the Federal Government's bottom line. Seventeen billion dollars coming in during that period of time, $17 billion, some of which was being fraudulently avoided.

Congress had good reasons to enact the ethanol changes in the JOBS bill. These changes helped to pay for a large bipartisan tax bill to provide tax relief to domestic American manufacturing. And these ethanol changes accompanied other energy incentives in that bill that had overwhelming support of both Chambers and both parties. Because of those ethanol changes, fuel excise tax receipts are now going into the highway trust fund. That means the Federal highway program now has more dollars available to it. It is just common sense. That is how trust fund accounting works.

It seems that some would now allow us to ignore those accounting rules. Some would like us to pretend that those new fuel tax dollars are not in the trust fund. You can't change what are just plain facts of life. These funds are in the highway trust fund.

This Congress should not pretend that a law enacted by a previous Congress did not happen. We are not using fuzzy arithmetic or fuzzy accounting. We are not just moving deck chairs around and not affecting the Government's bottom line. We are, in a very real way, affecting the Government's bottom line. And we are going to have, not only people who were avoiding paying taxes paying those taxes, but we are going to be able to have better transportation infrastructure, better highways by what we are doing. We should not ignore standard fund accounting rules because a minority of this Senate disagrees that taxes paid on a gallon of ethanol should not go into the highway trust fund.

The administration did not object to these provisions as part of the JOBS bill last October. The President signed that bill and now the administration's own transportation proposals rely on these new trust fund receipts that were developed in a bipartisan way by the Senate Finance Committee. The changes that we made in the JOBS Act made good sense, common sense, but that comes out also as good policy. They raised money for the highway trust fund.

We have every right—indeed, we have every obligation to the people who pay money into the road fund—to use those funds to improve America's highways.

If you don't use trust fund money for highways or for other transportation reasons, you should not be taxing it in the first place. But once it is taxed, those people who are fraudulently not paying that tax are guilty and should pay that tax. Our provisions do that.

Another claim by the Budget Committee is that the Finance Committee has not provided real offsets for increased burdens to the general fund. My colleague from New Hampshire, chairman of the Budget Committee,

suggests that our bill offsets, including economic substance, are illusory. He is concerned that these offsets, which were also passed during the last Congress, will be dropped in conference.

Now, the Joint Committee on Taxation, as we all know—maybe some of us forget—is the official scorekeeper on tax matters in the Congress, not the Congressional Budget Office. The Finance Committee has provided tax law changes that have been scored by the Joint Committee on Taxation as fully offsetting any increased burden to the general fund. The Joint Committee on Taxation is the official scorekeeper for revenue provisions under the Congressional Budget Act. It is not the Senate Budget Committee that is the scorekeeper; it is the Joint Committee on Taxation. Section 201(g) of the Budget Act restricts the Congressional Budget Office in a manner in which it carries out its responsibilities related to revenue legislation. Section 201(g) provides, in pertinent part:

For the purposes of revenue legislation, which is income, estate and gift, excise, and payroll taxes, considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress, such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such committees in determining such estimates.

This, then, should put to rest this debate about whether these offsets that are in my amendment and in Senator BAUCUS's amendment—that is a bipartisan amendment—are real. They have been scored by the Joint Committee on Taxation, the official scorekeeper under the Congressional Budget Act for revenue purposes.

I kind of think that maybe the Budget Committee is living in an ivory tower. It is particularly troubling that this nonsense attack—that the offsets are not real—comes from a committee that doesn't have to do any of the heavy lifting to find real offsets and real savings. But instead just find reasons to complain about some other committee's work. It must be nice to be able to just pick numbers out of thin air and try to claim the numbers are real or, in this instance, somehow not real, even though the Joint Committee on Taxation scores it as revenue-neutral, or better than revenue-neutral, as reducing the deficit. But it is the Finance Committee, not the Budget Committee, that actually has to do the hard work of finding, negotiating, and drafting the policies that can pass the Senate and create these real offsets.

Yesterday, I said 40 percent of the new funding is hard trust fund money. Of course, the Finance Committee gets no credit for that effort, no credit at all. It is a ridiculous charge. It is so easy to throw rocks around here. How about dealing with constructing policy instead of throwing rocks? I would like to see some of that.

The complaints we are hearing are from a committee that has no responsibility to find real numbers, real offsets, or real savings. It reminds me of an agricultural economist telling a farmer how to farm. I suggest that those who are sitting on the fence giving this farmer—and I am an Iowa farmer—stewardship advice about how to farm should get off the fence and get some dirt under their fingernails, and I will be happy to show them how to start the tractor. And I say this as a person who has been very loyal in my membership on the Budget Committee, as well as being chairman of the Finance Committee, because out of 48 amendments that were offered to destroy the budget that came out of the Budget Committee, I supported the chairman on 47 of the 48 amendments.

Now, the suggestion was also made that we have used these revenue raisers in the previous Congress. None of the offsets included in the highway substitute have passed the Senate this year as part of any other legislation. Even if that were the case, those additional anticipated revenues are available until they are passed by both Houses and enacted into law.

There seems to be an additional concern that the offsets used in this bill would not survive a conference with the House. As a person who worked for 8 years and 3 days—from when I first introduced the bankruptcy reform bill to when the President signed the bill a month ago—if I would have ever stopped because a bill passed the Senate but somehow didn't get to the President, we would never have a bankruptcy reform bill. But we passed that bill seven or eight different times—the conference report, plus original legislation through the Senate. How you get things done in the Senate is by sticking with it—just don't give up.

And we are doing that here. We continue to close corporate tax loopholes the same way. People on the Budget Committee are finding fault that we might pass the Senate and not get out of conference. That somehow means we are using a smokescreen. Let me suggest that on the JOBS bill last year, which I have already referred to several times in my remarks today, we passed through the Senate $39 billion of corporate tax loophole closers, and we ended up out of conference with $24 billion of that $39 billion. I don't think that is such a bad track record. If it had not been for the Senate and the bipartisan approach of the Finance Committee, we would not even have those $24 billion of loophole closers—money coming into the Federal Treasury. So you cannot just stop. Because these offsets, whether they be fraudulent use of tax dollars, nonpayment in a fraudulent way of gas tax money or other loophole closers—in all of these cases we have people finding ways to avoid paying their share of taxes that ought to be paid.

One has to keep at it. There is a constant game around here of lawyers, accountants, and investment bankers that like to game our Tax Code. It is pretty hard to keep ahead of them, but I am determined, and Senator BAUCUS is determined, to keep ahead of them. So I am not going to have anybody tell me we are not legitimate when we pass things through the Senate that maybe cannot survive conference because eventually they do survive conference, and eventually they are signed by the President.

The Senate cannot be subjected to the expectation of passage in the House as a standard for this body. The Senate has to focus on what is possible in the Senate, and differences will be resolved and reconciled with the other legislative body during the conference process.

As an additional point, I note it was Ways and Means Chairman BILL THOMAS, not the Senate Finance Committee, who first proposed codification of the economic substance doctrine, which is the largest revenue provision added in the substitute bill. I would also like to recite a little of the history of this matter so we will not presume that something maybe will not get through conference because maybe it did not get through conference last October, particularly when the chairman of the House Ways and Means Committee first brought up this issue.

The Senate Finance Committee began its work on tax shelter legislation in 1999. During the years 2000 and 2001, the Finance Committee released three discussion drafts to stimulate public comment on the closing of corporate tax shelters. None of these drafts contains codification of the economic substance doctrine that we are using in this amendment before the Senate right now as an offset. In May 2002, the Finance Committee reported out the Tax Shelter Transparency Act of 2002, which formed the basis for the tax shelter disclosure rules enacted in last fall's tax bill. The Tax Shelter Transparency Act did not contain codification of the economic substance doctrine.

In July of 2002, a mere 2 months after the Finance Committee reported out its bill, Chairman THOMAS laid down H.R. 5095, the American Competitiveness and Corporate Accountability Act of 2002. This bill would have repealed the FSC/ETI regime and used the proceeds for corporate international tax reform. It was also the first time the Ways and Means Committee dipped its toe into the waters of tax shelter closing legislation.

H.R. 5095 parroted the disclosure provisions of the bipartisan Senate Finance Committee-reported bill, but it went one step further—it called for codification of the economic substance doctrine. So where did folks get the idea around here that somehow economic substance doctrine codification is blue smoke, intended to mislead the Senate into believing that something is

revenue-neutral when it is not because this bill is revenue-neutral as scored by the Joint Committee on Taxation.

As an aside, I remind my colleagues that this additional money comes out of the hide of tax shelter promoters and tax shelter participants, not out of the pockets of the honest middle-class working men and women of America. This is not phony money, as maybe we were led to believe. This is good tax policy.

In emphasizing that the Senate highway bill is bigger than that provided in the budget resolution, the following quote was used: ''[i]t appears the Finance Committee floor amendments include provisions quite similar to those general fund transfers that were included in last year's Senate-passed bill. Such general fund transfers do nothing to offset the deficit effect of the increased spending in that amendment.'' I want to say why that is hogwash. The Members of this body have indicated, and will vote their intent on this issue in just a few moments, to spend more than was included in the Senate budget resolution. No procedural games, gimmicks, or end runs will be needed to prove this point. As the distinguished chairman of the Senate Budget Committee indicated repeatedly during the budget process, if there are 60 votes for something, then so be it, and clearly more than 60 members of the Senate are in agreement about this budget point of order.

But we do take issue with the fact that we were accused of sending an amendment to this Floor for consideration by 100 Members of the Senate that did nothing to offset the deficit effect of increased spending. The accusation is purely false and purposely misleading. Our substitute amendment replaced trust fund and general fund receipts and contributed substantially to the deficit reduction by more than $10 billion.

Finally, to those critics of the Senate Finance Committee title, I reissue the challenge I put to them yesterday, that obviously was not listened to. It is the same challenge from last year. If they do not like our Finance Committee title, come forward and tell us they do not want any new money for their State from this highway bill. Alternatively, if they want to keep their State's extra money, find another way to get there that will yield 60 votes. I issued the challenge last year, I issued the challenge yesterday, and I reissue that challenge this very hour.

Now, I did not get any takers last year, I did not get any takers yesterday, and I do not expect to get any takers today. So once again, it is easy to complain, but we are here to do the people's business and this amendment that came out of my committee is the people's business—it is financially responsible, doing things to close corporate tax loopholes, to be fair to middle-class working men and women, to get the job done basically of improving our highway and transportation infrastructure.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I say to the Senator from Iowa, the distinguished chairman of the Finance Committee, what a great job they have done. We imposed upon them the obligation or the duty of coming forth and coming up with a way to pay for a more robust bill. As I have said several times before, there are still other things we need to be doing, and even with the action that has been taken, it is not enough, but I understand he does now have it in a position where we are not increasing the deficit; that this is properly offset and I would almost believe those who oppose what he is doing are people who do not want the bill to start with.

We have been inviting people to come down with their amendments. I see the Senator from New Jersey is in the Chamber. I am anxious to get as many people down as possible and would encourage those Members who have amendments, keep in mind, the deadline for filing amendments is now behind us and we are operating under cloture right now. We need to have them get down and not wait until the last minute.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. What is the status of the time?

The PRESIDING OFFICER. The Senator has 13½ minutes.

Mr. GREGG. And the opposition?

The PRESIDING OFFICER. No time.

Mr. GREGG. Mr. President, to respond in part—and in whole, hopefully—to some of the points that have been made here, let me begin by saying I have an immense amount of respect for the chairman of the committee and for the Senator from Missouri, for the ranking Democrat on the committee, the Senator from Vermont, a neighbor who is retiring and who has done great service for our country and has decided to relax and go back to a beautiful State. Of course, he is going to go to New Hampshire to buy his goods because we don't have a sales tax, by the way. The chairman does exemplary work. He has been a tireless advocate, obviously, of trying to get this highway bill across the floor.

Honestly, I thought the Budget Committee had done its job when we went to the $284 billion number, which was a lot higher than where the President had started. I thought the President had done his job when he went to the $284 billion number as a compromise which was a lot higher than he started out. I think he was at $250 billion when he began this process. I thought we had reached agreement. Then Friday morning at 1 a.m., when we passed the budget, I was pretty sure we reached an agreement. The agreement was $284 billion.

Unfortunately, the amendment which showed up Monday night put a pretty big hole in that budget—$11.5 billion. As I have said earlier, we have to ask ourselves, why did we pass the budget on Friday to have the effect on the next legislative day—the next legislative day—to break the budget by $11.5 billion.

The Senator from Missouri says it is not a budget buster. I have to point out to the Senator from Missouri that yes, it is. That is what we are voting on. If it were not a budget buster, the Chair would not rule in my favor that it breaks the budget. That is what the motion is. The motion is this violates the Budget Act.

It violates the Budget Act on 2 counts. I am not taking the first count because that is a procedural battle. I am taking the second count, which is the substantive battle, which is that this amendment violates the Budget Act because it exceeds the allocation to the committee by $11.5 billion. So it is a budget buster. If it were not a budget buster, you would not have to waive the rule, you know, so let's not throw that straw dog out there.

And the offsets? I agreed with the chairman of the Finance Committee when he came to the floor last night and said, and I will quote:

> I also understand and agree with the House position that we should not mix general fund offsets and trust fund resources to that end.

I agree with that. But, yet, this amendment, this substitute, does exactly that. It takes money out of the general fund, moves it over to the trust fund, and then claims that the trust fund spending is offset by very illusory alleged revenue increases in the general fund, as I pointed out in my earlier statement. One of these revenue increases, the biggest one, has been used 14 times in the last 2½ years—14 times. How many times can you use a revenue increase?

We all know it is not a real revenue offset. We all know it is going to be dropped at conference. It has been dropped at conference every time it gets used; it gets used. It gets dropped, but the spending goes on. So as a practical matter the offsets, from the standpoint of the Budget Committee, do not plug the hole that is put in the budget, first because they do not apply to the trust fund which creates spending beyond the committee's allocation, and second because they exceed the general fund—they will not occur. I guess that's the best way to say it. They are not going to happen. The offsets are not going to happen.

Excuse me, I don't want to be excessive here: $700 million of the alleged $11.5 billion we deem to be legitimate offsets. They will occur.

But, independent of that, independent of whether this offset issue is real or not, and it is not real, by the way, the President—he is a Republican, he was just elected—reached an agreement with the House. He said, ''I am going to let you spend $30 billion more than I really want to spend in this area,'' but he has said—having made that concession to our colleagues because he got pressure—we are going to

hold the line at $284 billion. That is it. No more.

We all know that highways are important. We all know infrastructure is important. But we reached a consensus, first between the President and the House leadership. I agree, Senator INHOFE did not sign on to that idea, other than to bring a bill out at that number, but I agree, he is very forthright. He has always been committed to getting a higher number. But at least within the context of the greater party, the Republican Party, there was an agreement at $284 billion with the President of the United States. And then we confirmed that agreement last Friday with the budget for which 52 Republicans voted.

I am not expecting any votes on this issue from the other side of the aisle. During the budget process they proposed amendments which added $260 billion to the budget, so clearly the issue of controlling spending is not that high on their testing, on their schedule of agenda items. But it should be on ours. We have a President of our party say $284 billion is the number, and when that has been agreed to by a large membership of our party including, I believe, the majority leader in the Senate and the Speaker of the House, and when we confirm that agreement by passing a budget that says that is the number, we should stay with that number. It is what I would call common sense and probably appropriate action. That is why it is important, I believe, that we hold this number.

I respond to one other sidebar representation here—because it needs to be responded to but not because it is the essence of the debate—the question of the amendment that passed when we were marking up the budget, which had 80 votes, relative to how the additional highway spending would occur should additional highway spending be approved and be within the budget, called a trust fund. That trust fund had, as part of its structure, that if there was to be additional spending over $284 billion, it would have to be offset and it would have to come back to the Budget Committee so the Budget Committee could review it to determine whether the offsets were legitimate. That did not happen. The substitute occurred Monday night. We never saw it. It took us a long time to find it. It was 1,300 pages. People have been looking for a long time to find out exactly what it means. Even CBO is having a lot of trouble shaking it out. But we know we were never consulted on that number or how it was offset, which would have been the requirement under that reserve fund. Therefore, the representation that a vote on this waiver issue should be tied into your vote on that amendment issue is very hard to connect. In fact, the two pass in the night. There is no relationship between the vote that occurred in the budget debate and the vote on this waiver issue.

This waiver issue is very simple. The chairman of the committee has moved to waive a budget point of order because the bill as it is presently structured spends more than the budget that we passed on Friday night by $11.5 billion. It spends that much more than the budget passed.

The offsets, we believe, are illusory. I presume the Finance Committee will argue that they are not. But they have used them 14 times before, so I will leave it to the body to decide whether they are.

But independent of that issue, the offset issue, the simple fact is this amendment puts an $11.5 billion hole in what was an agreed-to number relative to the allocation, relative to what was going to be spent, relative to what the President thought was the understanding, and relative to what we had in our budget.

I see the majority leader is here. I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we will be voting here in a couple of minutes, but I did want to rise in support of the Budget Act point of order against the pending substitute to the highway bill. I do commend the chairman of the Budget Committee, Senator GREGG, for raising it.

We do need to exercise fiscal discipline in the Senate. This bill is a good example. We all want to pass a strong highway bill. It will benefit our economy and will create millions of jobs across the country. As I have said on the floor many times, it will contribute to safety on our highways. It is long overdue. The previous bill, TEA–21, expired in September of 2003 and on six occasions we have had to pass extensions. The current extension expires at the end of this month and we need to get this bill to conference as soon as possible, in my mind, so we can resolve what differences exist between the House and the Senate bill and so the President can sign it as soon as possible.

It should be clear to all of my colleagues the path to getting a bill signed into law will be smooth only if Congress stays within the spending parameters that have been laid out by the budget resolution we passed last month and by the President of the United States who must ultimately sign this bill.

The budget resolution, as Chairman GREGG has noted, allowed for transportation spending over a 6-year period of $283.9 billion. We passed that budget resolution here in the Senate a couple of weeks ago, on April 28.

In addition, the President of the United States has made it clear he will not sign a bill into law that spends more than the amount provided for in the budget resolution—$283.9 billion over 6 years. He made it clear publicly, privately, and in the statement of administration policy on this bill, which clearly states:

Should the obligation or net authorization levels that will result from the final bill exceed these limits the President's senior advisers would recommend that he veto the bill.

Finally, I want to make clear that sustaining this budget point of order will not kill the highway bill. Another substitute would be offered that stays within the spending limits set forth in the budget resolution and by the President, just as the various titles reported out by the different committees of jurisdiction did.

I am convinced we can pass a good bill that addresses America's infrastructure needs, creates millions of new jobs, and can be signed into law by the President. We should move forward to do just that.

I yield the floor.

The PRESIDING OFFICER. All time is expired.

The yeas and nays have previously been ordered. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL, The following Senator was necessarily absent: the Senator from Minnesota (Mr. COLEMAN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 76, nays 22, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—76

Akaka	Domenici	Nelson (FL)
Alexander	Dorgan	Nelson (NE)
Allen	Durbin	Obama
Baucus	Feinstein	Pryor
Bayh	Grassley	Reed
Bennett	Harkin	Reid
Biden	Hatch	Roberts
Bingaman	Inhofe	Rockefeller
Bond	Inouye	Salazar
Boxer	Jeffords	Santorum
Bunning	Johnson	Sarbanes
Burns	Kennedy	Schumer
Burr	Kerry	Shelby
Byrd	Kohl	Smith
Cantwell	Landrieu	Snowe
Carper	Lautenberg	Specter
Chafee	Leahy	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Talent
Collins	Lincoln	Thune
Conrad	Lott	Vitter
Corzine	Lugar	Voinovich
Crapo	Martinez	Warner
DeWine	Mikulski	Wyden
Dodd	Murkowski	
Dole	Murray	

NAYS—22

Allard	Enzi	Kyl
Brownback	Feingold	McCain
Chambliss	Frist	McConnell
Coburn	Graham	Sessions
Cornyn	Gregg	Sununu
Craig	Hagel	Thomas
DeMint	Hutchison	
Ensign	Isakson	

NOT VOTING—2

Coleman	Dayton

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 22. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order fails.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. INHOFE. Madam President, the vote that just took place is significant. We all realize that the Finance Committee has done their job. The Joint Tax Committee has verified that their work is good. They have found legitimate offsets. It is easy to say there are not, but there are. While it is very much a concern to everyone in terms of the budget and deficits, I am always ranked, certainly, as in the top five most conservative Members of this body. I can tell my colleagues, I would not vote for something that is going to increase the deficit. This is not increasing the deficit.

When we stop to think about what we are supposed to be doing in Washington, we talk about a lot of silly programs, but the two most important things on which you might say I am a big spender are, No. 1, defense and, No. 2, infrastructure. There is nothing more important that we will be voting on this year than this bill. We all know the reality that we need to get this to conference, and it was necessary to pass what we just agreed to in order to get it to conference.

I understand Senators CORZINE and LAUTENBERG are ready to offer an amendment.

I yield the floor.

Mr. GREGG. Madam President, unfortunately, I rise because I feel it is necessary to respond to the statements of the chairman of the Finance Committee which were made on this floor, both personal to me as chairman of the Budget Committee and to the staff of the Budget Committee, which I thought was an unfortunate decision.

Earlier we had a vote on waiving a point of order relative to whether this substitute, which is pending, was consistent with or is consistent with the budget we passed last Friday. Now, by definition that point of order would not have to have been waived if it was not well made. And by well made, I mean that the Chair would have ruled that this amendment, this substitute, did and does violate the budget resolution. The reason it violates the budget resolution, and I made this point earlier when I spoke, and I think I was accurate—in fact, I believe my comments this morning were entirely accurate, although they were represented to be inaccurate, regrettably—let me reiterate them. This budget resolution point of order lay because we went from a number of $284 billion—and this is the essence of the issue here—which was the agreed number, $284 billion—that is the number we agreed would be spent on the highway bill—we went from that number, under the substitute, to a number of $295 billion-plus. We don't know the final number because, quite honestly, there are so many pages in the amendment even CBO can't catch up with it, but we know it is at least $11.5 billion over the budget number, which was $284 billion.

This number, $284 billion, was not only a number which had been agreed to under the budget last week, it was a number that the President had said he wanted and on which the President had reached an agreement with the congressional leaders, the Speaker of the House and the majority leader. So it was not a number pulled out of thin air, nor was it a number that was not reached after a significant amount of consultation. It was, rather, a number which was reached after having considered what we could afford, what was coming into the trust fund, what was going out of the trust fund, and what could be afforded in this area of highway construction.

I think the representation was made, unfortunately, by the chairman of the Finance Committee, that the Budget Committee was acting irresponsibly, essentially—and that is my characterization; the words actually were a little stronger than that—when we raised the point of order, saying: Hey, listen, we passed a number at the number $284 billion, the President agreed with the majority leader and Speaker of the House that $284 was the number, and therefore we should stick to 284.

That is our job as a Budget Committee. I understand, certainly, the chairman of the Finance Committee chairs the most powerful committee in the Senate by far. The Appropriations Committee is competitive, but our jurisdiction, unfortunately, with the shift toward entitlement spending, has been lessened. It used to be the Appropriations Committee had about 60 percent of the Federal spending. Now it is about 30 percent. Finance has about 50 percent of the Federal spending because it has all the major entitlement accounts.

But we recognize—I certainly do as chairman of the Budget Committee—that the Finance Committee is one of the two most powerful committees in the Senate, of which the other one is not the Budget Committee. Certainly the Finance chairman has every right to come to the Senate floor and remind us of that, as he did. But it really isn't appropriate for him to come to the floor and suggest that we should not still do our job simply because we are not as powerful a committee as his; that our job should be basically we should stand out of the way and just be nice little folks who stand in the corner, and when the budget is getting run over by a powerful committee, just say: Hey, no, we don't get involved in that because we are not a powerful committee. The Budget Committee was not structured that way. The Budget Committee was actually structured to be sort of a conscience around here, a fiscal conscience of, What the heck are we doing?

Yes, we only got 22 votes, which shows maybe our conscience isn't all that strong. But, in any event, we have an obligation to raise the issues. So when we raise those issues, I think for the chairman of the Finance Committee to come down here and say, in terms which were most aggressive and most intense, that the Budget Committee was acting inappropriately and its staff was acting inappropriately, I just think that is misdirected. It does understand, but it doesn't acknowledge the fact that the Budget Committee exists. He is on the Budget Committee; I guess he knows it exists—as he mentioned. He has been a good supporter of the Budget Committee. I have never denied that. I have always said he was a good supporter of the Budget Committee. I respect him. I think he is one of the best chairman around here, as I think this chairman, the chairman of the Public Works Committee, is. I am constantly impressed by what the Senator from Oklahoma is able to do here. He is good, and I admire that, as is the chairman of the Finance Committee, and the chairman of the Finance Committee is not only very good but he works very hard, as the Senator from Oklahoma, to be bipartisan, which I think is important, too. I tried to do that when I chaired an authorizing committee. But still that doesn't mean that we should ignore the importance of this issue.

To get into the substance, to respond again to some of the points that have to be responded to—I am sorry they have to be respond to, but I do think they have to be responded to because the intensity of the argument that we were not accurate in raising this point of order is such that to let it just sit would be wrong. Again, I regret that I have to do this.

The point, to go back to the essence of the issue, was that the budget set at $284 billion the level of allocation for the highway bill. Under this amendment, that spending goes up to $295 billion-plus. That was the point of order.

As an ancillary to that discussion, we did get into the issue of just what has happened in the history of this highway bill. Yes, last year through the JOBS bill there was a finessing of the way money flows from account to account around here, so that the highway fund was given a lot more money at the expense of the general fund. I made reference to that.

I didn't mention ethanol, although the response spent a lot of time on ethanol. In fact, I specifically didn't mention ethanol because I know that tends to incite some Members around here. I just simply said last year about $15 billion ended up being moved out of general fund activity, or being laid off on the general fund, in exchange for giving the highway fund an extra $15 billion. And no matter how you account for it, we end up $15 billion short. That is just the way it is. The money gets spent on the highway proposal, and so we are $15 billion short.

The way it worked, to get specific, was that the subsidy to ethanol gasoline, which is about 5 cents a gallon

which had been borne by the highway trust fund, was shifted over to the general fund, so the general fund ended up with about a $13 billion hit. The highway fund ended up with a $13 billion windfall, arguably.

Then there was about $2.5 billion which historically had gone, since 1993, from the gas tax into the general fund, because under the 1993 agreement there had been an agreement that the gas tax would be raised—I think by 5 cents—and it was agreed at that time that half of that would go to the highway fund to build roads and the other half would go to deficit reduction, and historically those moneys have stayed there for deficit reduction or in the general fund. So that money was taken out of the general fund and moved back to the highway fund. It was probably a legitimate decision, but it did cost us $2.5 billion or thereabouts. So that is where the number came from. I think it was an accurate statement. We were basically putting about a $13 billion hole in the general fund in order to get this bill up to the $284 billion level.

To go from the $284 billion level to the $295 billion level, which again created the point of order because that exceeded the allocation, the Finance Committee reported a bill which represented that they had offsets to pay for that difference. They said Joint Tax had scored it that way.

First off, I said the offsets were illusory. I believe they are illusory. But I also made the point that even if they are not illusory, it didn't matter because it still created the problem for the budget, which is that you exceeded the $284 billion. But I think it is hard to argue—and again I use the term it didn't pass the ''straight face test''—to argue that an offset that has been used 14 times and failed 14 times is an offset that has much likelihood of success.

The chairman makes the point, and it is a legitimate point, that he is a stick-to-it guy and he is going to get this someday no matter what, and he is going to stick to it no matter what. I admire that. He is a stick-to-it guy. His work on the bankruptcy bill has been extraordinary. His work on a lot of bills around here has been extraordinary, and that is probably because he is dogged on some of this stuff. When he bites ahold of something, he stays with it, and that is impressive.

But I do think when folks are sitting back in the office, thinking about how to pay for this thing, and they came up with putting in the enterprise tax again after 14 attempts at using this item, that they knew the likelihood of that happening was very slim. So I think it was reasonable to say that number was illusory. But equally important, the representation that the Joint Tax Committee is the final arbiter of that question is something I believe has to be clarified, because that was the chairman's position.

So I think I would like to know the clarification of this. As chairman of the Budget Committee, I believe I have the right to know whether Joint Tax or the Budget Committee is the final arbiter of that because, as I understand it, under section 201(f), which was cited by the chairman of the Finance Committee, but not entirely:

The Budget Committee of the Senate and the House shall determine all estimates with respect to scoring points of order and with respect to execution of purposes of this act.

I ask a parliamentary inquiry of the Chair:

Who is the proper scorer of points of order relative to revenues and expenses?

The PRESIDING OFFICER. The Senator is entitled to an answer. Under the Congressional Budget Act of 1974, termination of points of order section 312, the Budget Committee determination for purposes of this title and title IV, the levels of measuring budget authority outlays, direct spending, new entitlement authority, and revenues for fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.

Mr. GREGG. I thank the Chair for that ruling. I hope that clarifies that point and responds, I believe, adequately to the points of the chairman of the Finance Committee that might not be the case.

Let me summarize. We made a point of order, a motion to waive was brought forward, the chairman of the Finance Committee, and the chairman of the Transportation and Public Works Committee were successful by an overwhelming vote and we lost.

I do not think that should lead to the chairman of the Committee on Finance coming to the Senate and suggesting the role of the Committee on the Budget in making these points is in some way inappropriate or irrelevant, that we should not take this effort to try to enforce a budget—especially when we passed the budget last week.

I admire, as I said, the Finance Committee chairman a great deal. I am sorry this misunderstanding has occurred. But I do believe I have an obligation as chairman of the Committee on the Budget to at least speak up on behalf of my staff, who has done an extraordinary job under fairly difficult circumstances.

In that context, for a more historical perspective on the highway bill, since this was cited by the chairman of the Committee on Finance, I ask unanimous consent to have printed in the RECORD the Informed Budgeteer statement which is a budget statement summarizing the history of the highway bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMED BUDGETEER

As the May 31 expiration date of the latest extension of federal surface transportation programs rapidly approaches, the pressure is on the Senate to pass a reauthorization bill by the end of this month. The House passed its version of the bill (H.R. 3) last month.

The Senate bill is being considered on the floor, as the four committees with jurisdiction—Environment and Public Works (EPW), Banking, Commerce, and Finance—have each marked up their respective titles of the bill. The Banking, Commerce, and Finance titles are added on the floor to the bill reported by EPW.

There are several different metrics that participants in the legislative process are using to evaluate this bill besides ''how much does each state get?''—is it more than the President's request, is there enough ''money'' in the highway trust fund, and does the budget resolution allow it?

Bigger than the President's Request?

The Senate-reported and House-passed bills are, in total, both consistent with the President's FY 2006 Budget request of $284 billion for transportation programs for FY 2004–2009, reflecting the informal conference agreement reached, but not enacted, last year.

End of story, right? . . . given this apparent coalescence around a $284 billion bill? Because the Administration drew a line in the sand most recently with a SAP threatening to veto anything above $284 billion (as well as anything creating a new federal borrowing mechanism), the Senate leadership insisted that the bill brought to the floor not breech that level. The authorizers' action, however, has only lived up to the letter, but not the spirit, of that admonition. Senate authorizers snuck in a change to their substitute, without a separate vote, to increase the bill's funding level above $284 billion. So the bill before the Senate currently exceeds the prescribed level by $10–$15 billion.

Affordable from the Highway Trust Fund? The latest CBO estimates indicate that revenue now credited to the highway trust fund is sufficient to support a $284 billion bill, mainly due to provisions in the American Jobs Creation Act (AJCA) of 2004 (P.L. 108–357), enacted in the closing days of the 108th Congress. But last summer the highway trust fund could not have supported a $284 billion bill. How can the highway trust fund all of a sudden have sufficient resources?

Last summer, the Senate faced the exact same pickle it does now. The Senate's highway spending appetite ($319 billion) was greater than the level of related federal revenues dedicated to highways and transit at that time. The Finance Committee had intended to pay for the additional spending through a combination of (1) brand new revenues from those who had been avoiding gasoline taxes (fuel fraud) and (2) shifting the incidence of revenues the government was already collecting (2.5 cents gas tax), or already not collecting (ethanol subsidy), between the general fund and the highway trust fund (general fund transfers).

To the extent that some proposed increases in highway trust fund spending were being justified on the concept of general fund transfers (which do not constitute new revenue to the federal government), that spending would have been a pure increase in the federal deficit. Because of bipartisan concern about such a deficit increase on the part of some of its members, the Finance Committee committed to offsetting some of the general fund transfers with unrelated (to highways) revenue raisers.

Such unrelated-but-real new revenues could have mitigated the deficit increase that would have otherwise resulted from the component of higher trust fund spending rationalized by magically ''augmented'' trust-fund balances. However, when the highway bill failed to emerge from conference last year, the fuel fraud and general fund transfer provisions were lifted out of S. 1072 and enacted separately in AJCA, without the accompanying additional offsets that had been promised by the Finance Committee.

It is true that the enacted fuel fraud provisions are now bringing a welcome $1 billion or so per year (that was not being collected before) to the federal government and the highway trust fund. But the enacted general fund transfers have made the highway trust fund ''healthier'' by about $2–3 billion annually only by definition, since merely moving around deck chairs has not changed the federal government's bottom line.

Nonetheless, because there is a new CBO baseline and a new Congress, highway spending proponents in the Senate only seem to notice that the highway trust fund will now support a higher level of spending than it did six months ago (even though gasoline consumption has not increased, and has probably decreased because of higher prices). They seem to forget that some of the spending that will be done on the strength of these general fund transfers was supposed to have been offset by real revenue increases.

Bigger than the Budget Resolution? The ''reported'' Senate transportation bill already exceeded the levels of contract authority allocated for 2006 (for the Banking Committee) and for the 2006–2010 period (for all three committees) by the FY 2006 budget resolution just adopted.

How can that be if the 2006 budget resolution assumes the $284-billion level? The oversimplified answer is that the budget resolution assumed the stream of contract authority associated with the H.R. 3 as passed by the House (because the House had completed its action, while the Senate had not finished reporting as the conference report on the budget resolution was being finalized). But the spread of the $284 billion across the years and over the different types of transportation spending (highways, transit, and safety) is different in the ''reported'' Senate bill, which means that the Senate bill does not fit an allocation based on the House bill. Therefore, a 60-vote point of order (under section 302(f)) applied against the ''reported'' bill.

Now that the bill has been increased by $10–$15 billion, a point of order applies against the $295–$300 billion bill. (Last year, a 302(f) point of order was raised against S. 1072 the Senate highway bill in the 108th Congress, but the Senate waived it by a vote of 72–24.)

Authorizers potentially could avoid a 302(f) point of order by employing the mechanism established in section 301 of the 2006 budget resolution, which anticipated that transportation spending demands would exceed the levels allocated by the resolution.

Section 301 says that if the Senate EPW, Banking, or Commerce Committee (Transportation and Infrastructure Committee in the House) reports a bill (or amendment thereto is offered) that provides new budget authority in excess of the budget resolution levels, the Budget Committee Chairman, may increase the allocation to the relevant committee ''to the extent such excess is offset by . . . an increase in receipts'' to the highway trust fund. Such legislation increasing receipts must be reported by the Finance Committee.

The Finance Committee once again has pledged to provide additional receipts to the highway trust fund to support higher spending on transportation programs, but the title of the bill reported by the Finance Committee does not include any offsets.

It appears that the Finance Committee's floor amendment includes provisions quite similar to those general-fund transfers that were included in last year's Senate-passed bill. Such general-fund transfers do nothing to offset the deficit effect of the increased spending in that amendment.

This year's Senate floor debate on the highway bill seems all too familiar, with proponents of higher spending on highway and transit programs potentially considering options that would partially ''pay for'' a larger bill by rearranging paper entries on the government's books rather than increasing resources collected by the federal government—the same as last year's debate. Now the Senate must decide whether to allow history to be repeated, a mere two weeks after it adopted a conference report on a budget resolution to enforce fiscal discipline at agreed-upon levels.

AN EMERGENCY, A SUPPLEMENTAL, OR AN EMERGENCY SUPPLEMENTAL?

While the Senate debated the Iraq supplemental two weeks ago, there was some confusion about the effect of emergency designations and the difference between regular and supplemental appropriations. Over the last four years, Congress has repeatedly approved funding outside the regular appropriations process in response to the wars in Afghanistan and Iraq and the war on terror. The funding has most often been in an emergency supplemental appropriation. Though emergency designations and supplementals are often discussed as if they are interchangeable terms, they are distinct concepts.

Supplemental appropriations. A supplemental appropriation is simply an appropriations bill other than the regular appropriations bills that the Congress must consider each fiscal year (most recently there were 13 such regular bills; for 2006 there are 12 in the Senate and 11 in the House). Neither a supplemental bill nor all items in it are necessarily designated as an emergency or even intended for purposes alleged to be emergencies. Simply providing funding through a supplemental appropriation does not trigger the ''do not count'' (for budgetary enforcement) treatment that an emergency designation provides. Each item in a supplemental must include an explicit emergency designation to receive ''do not count'' status.

Supplemental appropriations are required when, after the regular appropriations are enacted for the year, new events or information requires adjustments to the previously appropriated amounts. Supplementals are also useful for purposes that are known to be temporary because a supplemental provides a discrete and therefore optically severable amount of money that could discourage those amounts from becoming part of and enlarging regular appropriations in future years.

Emergency designations. Emergency designations are attached to individual accounts (and may even be attached to tax provisions or direct spending items in authorization bills), and can be used in any appropriations bill, either regular or supplemental. When a provision is designated as an emergency, the Budget Committee does not count the spending in that line item against the enforceable levels in the budget resolution. Contrary to popular misconception, the emergency spending still counts toward total federal spending and the deficit; it is only not counted for Congressional enforcement purposes.

The appropriate use of an emergency designation in the Senate is most recently articulated in section 402(b) of the Conference Report on the 2006 Budget Resolution, which is the source of the authority to not count emergencies for purposes of budgetary enforcement. Section 402 (and its predecessors in the 2004 and 2005 budget resolutions) have required that the report accompanying any bill with emergency spending to explain the manner in which the spending is sudden, urgent, pressing, a compelling need requiring immediate action, unforeseen, unpredictable, unanticipated and temporary. To date, this requirement has been ignored.

However, whether the emergency point of order applies does not depend on whether this reporting requirement has been fulfilled or on any evaluation of whether the emergency item actually meets the criteria. Instead, the emergency point of order automatically applies to any non-defense spending item that has an emergency designation. Defense emergencies are exempt from the point of order. The existence of the point of order allows any Senator to use the ''eye-of-the-beholder'' test to confront the rest of the Senate with the issue of whether a non-defense item meets the emergency criteria and warrants an emergency designation so that it does not count for enforcement.

If the point of order is raised against a non-defense emergency designation in either a pending bill or amendment, supporters of the spending can move to waive the point of order, which requires 60 votes. If the point of order is sustained, the emergency designation is struck and the spending in the bill or amendment is then counted against the 302(a) allocation and other appropriate levels. If the committee is already at or above its allocation (this is the case for fiscal year 2005), the amendment or bill then faces a 60-vote 302(f) point of order.

Baseline treatment. While the concepts are not interchangeable, a commonality between emergency spending and supplemental appropriations is their treatment in the CEO baseline. Whether in a regular or supplemental appropriation (and regardless of the presence of an emergency designation), every discretionary spending item appropriated for the current fiscal year is assumed by CBO to continue on, adjusted for inflation, in the subsequent fiscal years for baseline purposes. Statutory rules for constructing the baseline mandate this treatment, and CBO has no discretion to pick and choose which discretionary items may be recurring versus a one-time only expenditure.

The Budget Committees are not required to use the CBO baseline as the basis for constructing the budget resolution. But in practice, the Budget Committees use their discretion to adopt an alternate baseline in only limited circumstances. Removing what the Committees view as temporary spending from the baseline is an instance where the Committees occasionally make adjustments to the CBO baseline. However, CBO's 2006 baseline (issued in March 2005) did not include appropriations for Iraq and Afghanistan because a 2005 supplemental has not been enacted, so no baseline adjustment was necessary in this year's budget resolution.

TRANSPORTATION BILL COMPARISONS TOTALS FOR 2004–2009

[$ IN BILLIONS]

	Pres. FY06 budget	House passed (109th)	Senate reported (109th)	Senate passed (108th)
EPW—Highways	227	225	226	256
Banking—Transit	40	42	43	47

TRANSPORTATION BILL COMPARISONS TOTALS FOR 2004–2009—Continued

[$ IN BILLIONS]

	Pres. FY06 budget	House passed (109th)	Senate reported (109th)	Senate passed (108th)
Commerce—Safety	6	6	6	7
Subtotal, Contract Auth.	273	273	275	310
Authorized Discretionary Transit BA	9	11	9	10
Highway Emerg. Relief Supplemental	2	n/a	n/a	n/a
Advertised Bill Total	284	284	284	319

In FY 2005, $2 billion was appropriated from the highway trust fund for the Federal-aid highway emergency relief program to provide funds to repair damage from the 2004 hurricanes and to clear the backlog of emergency relief program requests. The Administration includes this funding in its revised reauthorization proposal, but the House and Senate proposals do not.

NOTE: Totals may not add due to rounding.

Mr. GREGG. Those points having been made, I acknowledge defeat on this point. I admire, as I said, the chairman of the committee for being a successful chairman who knows how to get things done around here. We may disagree on occasion, but my admiration for him certainly does not abate in any way because of those disagreements. In fact, my respect grows. But do not expect we will disappear. We were not wilting violets around here on the Committee on the Budget. We will continue to try to make points on the points of order we think are appropriate.

Mr. INHOFE. Madam President, before the chairman of the Committee on the Budget leaves, there are some areas where an honest disagreement can take place. One is on the idea that if we try to establish a policy in this country that addresses something that is an emotional need or desire of any of these Members and it has nothing to do with transportation, that should not be borne on the backs of the highway trust fund.

We talk about the ethanol provision which I opposed, but nonetheless we had that, the Senator is right, and the cost of that. If they want to pay for it, let them pay for it out of the general fund. Why should the highway trust fund be paying for policies?

And the same is true on the deficit reduction. I stood in the Senate at that time that took place saying I was for deficit reduction but not on the backs of the highway trust fund. The reason I say that is because I have considered this to be somewhat of a moral issue. People go to the pump and they pay tax for gasoline. There is an assumption, as wrong as it is, that money should go to repairing roads and highways and bridges. I do disagree in that respect.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask unanimous consent that the pending amendment be set aside so the Senate may consider amendment No. 606.

The PRESIDING OFFICER. There is no amendment pending.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. The Chair declares the Senate in recess subject to the call of the Chair.

Thereupon, at 12:02 p.m., the Senate recessed until 1:02 p.m. and reassembled when called to order by the Presiding Officer (Mr. DEMINT).

The PRESIDING OFFICER. The majority leader is recognized.

CAPITOL SECURITY THREAT

Mr. FRIST. Mr. President, we had a short recess for about an hour because of a security threat that, by now, has been covered well in the media. I wish to take this opportunity to thank the Capitol Police and the various assistants throughout the Capitol because when we have that sort of alert, which comes very quickly, very unexpectedly while we are in session here, but at the same time this huge Capitol Building with literally hundreds and thousands of people working in this complex having to stop and evacuate in an orderly way is a real challenge.

So I thank everybody, including our guests, because at the same time we have all of us who are working here in this Capitol structure, there are guests visiting throughout the Capitol. Everybody left in an orderly way and in a way that was safe and calm. As far as I have heard in talking with the Sergeant at Arms, there were no injuries. When you have that sort of rapid departure, that is always a risk.

Our Capitol Police, Sergeant at Arms, and the Secretary of the Senate all responded in a way that we can all be proud of. Most importantly, the offending aircraft is now on the ground, and the pilot and whoever else was in the plane are being questioned.

Now I am happy to turn to the Democratic leader.

Mr. REID. Mr. President, I am grateful that the distinguished Republican leader would come to the floor of the Senate and acknowledge the people who look after us every day. The training of our Capitol Police force is exceptionally good. I was with them, as was the distinguished Republican leader, and I am amazed at their professionalism as they took us away.

I am an alumni of different universities, a proud lawyer, and a number of other things I have had the good fortune of working with over a number of years, but I am an alumni of the Capitol Police. I am very proud of that. I recognize that the work I did those many years ago as a Capitol policeman pales in comparison to the problems that face this beautiful building of the American people.

I am so confident that we have the best police force in the world here on Capitol Hill. They have to deal with bomb threats and all kinds of chemical problems. The Republican leader, who is a doctor, worked through the anthrax problem; I wasn't involved with that. But they are experts at that. They are aware of anything that is going on in the world regarding terrorism because of these evil people from around the world. This is, if not the No. 1 target, one of the top targets.

I appreciate and commend and applaud the majority leader for coming here immediately and recognizing these people who look after us every day. Every day, we see them standing around doors, and they don't appear to be working real hard, but it is on days such as this that they earn their pay over and over again. I am glad and happy that I had the experience to be a Capitol policeman, and I look forward to continually being protected, along with the American public, in this great building by these wonderful men and women.

The PRESIDING OFFICER. The majority leader is recognized.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

Mr. FRIST. Mr. President, due to the recess, I ask unanimous consent that notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, regular order.

AMENDMENT NO. 606 TO AMENDMENT NO. 605

The PRESIDING OFFICER. The clerk will report the amendment that was sent up just before the recess.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE], for himself, and Mr. LAUTENBERG, proposes an amendment numbered 606.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish the effect of a section of the United States Code relating to the letting of contracts on individual contributions to political campaigns, and to require the Secretary of Transportation to consider State laws that limit political contributions to be in accordance with competitive procurement requirements)

After section 1703, insert the following:

SEC. 17___. LETTING OF CONTRACTS.

Section 112 of title 23, United States Code, is amended by adding at the end the following:

''(g) EFFECT OF SECTION.—Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.''.

At the end of subtitle G in title I, add the following:

SEC. 17___. DUTIES OF THE SECRETARY OF TRANSPORTATION.

Section 5323(h) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and identing appropriately;

(2) by striking ''A grant or loan'' and inserting the following:

''(1) IN GENERAL.—A grant or loan''; and

(3) by adding at the end the following:

''(2) PROCUREMENT REQUIREMENTS.—The enactment of a law or issuance of an order by a State that limits the amount of money that may be contributed to a political campaign by an individual doing business with a grantee shall be considered to be in accordance with Federal competitive procurement requirements.''.

Mr. INHOFE. May I inquire of the Senator about how long he will be taking for his opening remarks?

Mr. CORZINE. I thank the Senator from Oklahoma for his courtesy. I suspect that my statement will be somewhere in the neighborhood of 10 minutes and Senator LAUTENBERG an additional 5 minutes.

Mr. INHOFE. I ask unanimous consent that at the completion of the remarks of the senior Senator from New Jersey, the junior Senator be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I once again thank the Senator from Oklahoma.

Before I begin, I echo the remarks of the majority leader and minority leader congratulating and thanking the members of the Capitol Police for their efforts in protecting all of us, which they so ably do day in and day out. It is a testimony to their forethought that we were so efficiently able to move from the Capitol and protect folks. We are blessed with their efforts. I also thank the Sergeant at Arms and the Secretary of the Senate for their efforts and look forward to saying ''thank you'' personally to all of the individuals involved.

I think I have asked that the pending amendment be set aside and we move to amendment No. 606, if I am not mistaken. Is that correct?

The PRESIDING OFFICER (Mr. ISAKSON). Amendment No. 606 is the pending question.

Mr. CORZINE. Mr. President, I rise today with my colleague, Senator LAUTENBERG, who will be joining me in a minute, to offer an amendment to the SAFETEA Act, S. 732. Our amendment addresses a serious problem where Federal highway and mass transit contracts are awarded by States, those situations where Federal money and State money are intermixed in contracting administered by the State. These contracts are often or can be influenced, either by perception or reality, by political contributions. The Government contracting issue I am speaking of is commonly known as ''pay to play.''

To address this issue in situations where States administer these contracts with both Federal and State money or where Federal money is administered by the State, Senator LAUTENBERG and I are offering this amendment to allow States to set contracting rules that limit campaign contributions by contracting providers. This is something that has been in Federal law for over 50 years where there are straight Federal contracts. Unfortunately, there have been far too many cases across the country where in these circumstances businesses have made contributions to public officials or campaign committees and then expected to influence the awarding of Government contracts. It is not an attractive situation.

Last year, two Governors lost their careers in public service due to pay-to-play scandals in their States. Other high-profile instances of pay-to-play corruption have occurred across the Nation, particularly in my home State where, on a bipartisan basis, our State legislators and Governors have reacted. But this is not unique to New Jersey. It has gone from New Jersey to California, from Philadelphia to Los Angeles and beyond. The problem is widespread and needs to be addressed.

Corrupt practices of pay-to-play have serious implications for the public. They have the effect of limiting competition in many ways because those who give political contributions then get the edge on those who might want to compete to do the business. They often reduce the quality of infrastructure projects—I will talk about a couple of situations that we see, particularly in my home State—and they lower the confidence of the public in elected officials and in public service in general.

Finally, and most important—this certainly is the case in my State—they raise the cost of doing business for the government and ultimately to the taxpayer.

This practice is often more like legalized bribery than I think any of us would like to admit, and it results in a corruption tax that all citizens end up bearing. So I think there is a reason to make sure that we act.

I regret to say this disease has really impacted my State of New Jersey. It is something that, unfortunately, has infected both sides of the aisle in the State, both parties. It really needs to be addressed.

Just last month, dozens of local public officials—and I mean dozens, both Democrats and Republicans in one of our counties—were indicted for soliciting or taking bribes from people doing business with their towns, and it was often in conjunction with political contributions. Sadly, New Jersey taxpayers have been hit with this hidden corruption tax, higher costs of doing business in our State, and I think it needs to be moved against.

Our Governor, with bipartisan support in both Houses, was able to institute a serious pay-to-play ban that requires that any political contribution be less than $300 from anyone who wants to do business with the State. It is a straightforward, easy situation.

Honestly, time after time we have had the public trust broken in this contracting procedure, where Federal and State funds have been misused. We had a motor vehicle inspection contract where there was only one bidder. It was a cost-plus contract that ended up being over $200 million above cost. It ended up costing the Federal Government and the State a lot more than was necessary. Again, it is a corruption tax. We have had other places—the EZ-Pass toll collection system—where politically favored vendors were able to win no-bid contracts. It seems to me we need to make sure we put competition on a level playing field. That is what this amendment is all about.

Fortunately, New Jersey and several other States, as I suggested, have, on a bipartisan basis, addressed this issue. It is about contracting law, however, not campaign finance. It is setting the rules for who has the ability to bid. Unfortunately, the Department of Transportation recently informed the State of New Jersey that these commonsense limits may not apply to highway or mass transit contracts that use Federal funds. The Department of Transportation argued that it might limit competition when, in fact, I do not understand how limiting the amount of a campaign contribution has anything to do with whether someone is going to qualify to participate in a contracting bid. The State is now seeking an injunction in the Federal courts and there will be all kinds of litigation about this over a period of time. Whether it gets overruled or not, I think it is appropriate to institute the possibility that, if a State legislature wants to take the stand that they

would like to set rules for contracting, on contracts they administer, they have the ability to do it.

I think this is important, both for promoting competition but also for ensuring that there is clarity and confidence in the public bidding process, not only in my State but in a number of other States which have also bought into these kinds of rules. It is really a cross-section across the country in various places.

I have here a series of States—Illinois, Kentucky, Ohio, West Virginia, South Carolina—a number of places. These are States, as shown in the light green, that already have bills before their State legislatures. There are an enormous number of local jurisdictions that have also done it: Los Angeles, San Francisco, Oakland, Chicago—24 jurisdictions in my own State of New Jersey.

We think this is an important States rights issue. We should be able to enact laws that fight corruption without interference from the Federal Government. I hope we will look at this in a context that we want to make sure that what would work in those individual States is actually attended to.

Banning pay-to-play is consistent with current Federal practice when it is only Federal contracts that are being awarded. The Government already bans pay-to-play for Federal contracts that are awarded directly.

The Securities and Exchange Commission, along with a municipal rulemaking board, prevents pay-to-play when Government bond issues are at stake—again, a contracting issue, not a campaign contribution rule. In fact, I was instrumental and involved in this as an employer on Wall Street 10 years ago, to ban contributions from bond underwriters because it interfered too regularly with the overall process.

We think we can make a difference. These rules have worked when they have been instituted. They certainly have in the bond underwriting business, and they have Federal rules. The Federal Government is refusing to allow States such as New Jersey to enact similar contract reforms. I think this is an important step going forward.

I want to clarify something about this amendment. We are not establishing a Federal pay-to-play rule in Federal highway contracting. Some of the opponents would have you believe that. Those rules are already set by the Federal Government. It is merely respecting the rights of the State to establish and maintain their own State contracting practices. It only impacts contributions to State-level candidates, not Federal-level candidates. Federal campaign finance laws are in no way affected.

This commonsense measure has the support of a number of groups that work to protect the integrity of government spending: Public Citizen, Common Cause, the Brennan Center for Justice.

I ask unanimous consent to have letters of endorsement from these groups printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CAMPAIGN LEGAL CENTER,
Washington, DC, May 5, 2005.

Re Safe-TEA/TEA-LU Highway Bill and the Government Contracting Reform Amendment

DEAR SENATOR: The Campaign Legal Center strongly urges you to support the Government Contracting Reform Amendment to the Safe-TEA/TEA-LU Highway Bill, which protects the right of states to enact and enforce ''pay to play'' laws.

For more than 50 years federal law has prohibited political contributions to federal candidates from federal government contractors. In recent years, state and local governments around the nation have followed Congress' lead by enacting similar ''pay to play'' laws to protect the integrity of the procurement process.

The right of states to enact and enforce ''pay to play'' laws has recently come under threat. Late in 2004, the Federal Highway Administration determined that a New Jersey State Executive Order limiting the size of political contributions from government contractors to state candidates violates federal law competitive bidding requirements, established by 23 U.S.C. §112, for state highway construction contracts involving federal funds.

This Federal Highway Administration action affects not only New Jersey, but also threatens enforcement of similar ''pay to play'' laws in Kentucky, Ohio, South Carolina and West Virginia. Further, the Highway Administration action curtails the right of other states around the nation to enact their own ''pay to play'' laws.

The Government Contracting Reform Amendment sponsored by Senators Corzine and Lautenberg amends 23 U.S.C. §112, which establishes the competitive bidding requirement for contracts involving federal highway funds, to state that ''Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.''

Similarly, the Government Contracting Reform Amendment amends 49 U.S.C. §5323, which establishes general provisions for the award of contracts involving mass transportation funds, to make clear that state ''pay to play'' laws ''shall be considered to be in accordance with Federal competitive procurement requirements.''

State laws restricting political contributions from government contractors are consistent with, and advance the purposes of, the federal law contracting requirements for highway and transit funds. Competitive bidding requirements, and reasonable restrictions on contributions from contractors who do business with the government, both advance the government's interest in avoiding real and apparent political corruption and preserving the integrity of the contracting process.

We urge you to support the Corzine-Lautenberg Government Contracting Reform Amendment to the pending Safe-TEA/TEA-LU Highway Bill, to protect states' rights to enact and enforce ''pay to play'' laws.

Sincerely,

MEREDITH MCGEHEE,
PAUL S. RYAN.

BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW,
New York, NY, April 27, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment

U.S. Senate,
Washington, DC.

DEAR SENATORS: I write on behalf of The Brennan Center for Justice to support Senator Jon Corzine's ''pay-to-play'' reform protection amendment to S. 732, the ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.'' Since its inception in 1995, the Center's Democracy Program has been working in the area of campaign finance reform on federal, state, and local levels. We believe that the amendment is important for ensuring that states maintain the flexibility to choose effective tools for protecting the integrity of government contracting.

Systems for government contract bidding have long sought to satisfy the laudable and compatible goals of contracting with low-cost and ethical bidders. For example, current federal law regarding state transportation projects that use federal money provides that ''[c]ontracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.'' 23 U.S.C. §112(b)(1) (emphasis added). Federal law expressly charges the state transportation department with establishing the criteria of responsibility. 23 C.F.R. §635.114(a).

Several recent scandals regarding government contracting in New Jersey prompted New Jersey to establish a criterion of responsibility for government contracting, which prohibited the state from contracting with an entity that has contributed to a candidate for or holder of the office of Governor, or to any State or county political party committee, within certain time frames. See New Jersey Executive Order 134 (September 22, 2004). The executive order explicitly stated that ''the growing infusion of funds donated by business entities into the political process at all level of government has generated widespread cynicism among the public that special interest groups are 'buying' favors from elected officeholders.'' Id. Courts have recognized that contributions from government contractors present a severe risk of engendering corruption or the appearance of corruption, and thus have generally upheld ''pay to play'' contribution bans. See, e.g., Blount v. SEC, 61 F.3d 938,944–48 (D.C. Cir. 1995) (upholding constitutionality of SEC regulations that prohibit municipal finance underwriters from making campaign contributions to politicians who award government underwriting contracts); Casino Ass'n of Louisiana v. State, 820 So. 2d 494 (La. 2002), cert. denied, 529 U.S. 1109 (2003) (upholding ban on contributions from riverboat and land-based casinos); Gwinn v. State Ethics Comm'n, 426 S.E.2d 890 (Ga. 1993) (upholding ban on contributions by insurance companies to candidates for Commissioner of Insurance).

Recent action by the Federal Highway Administration, however, has threatened to strip New Jersey and other states of their capacity to determine criteria of responsibility, undermining legitimate state efforts to protect against corruption, or the appearance thereof, in government contracting. The FHA took the unprecedented position that it would not authorize federal funds for use in New Jersey transportation contracts because of Executive Order 134. The FHA took this position even in light of the scandals in New Jersey, and despite the facts that (1) all bidders would have notice of New Jersey's responsibility criteria and (2) contracting awards still would be granted to the

lowest bidder. The State of New Jersey is challenging the FHA's position in court. In the meantime, however, New Jersey was forced to rescind much of its executive order since it, like most states, significantly relies on federal funding for many of its transportation contracts. No state should be forced to compromise legitimate and well-grounded efforts to protect the integrity of its government in order to receive federal transportation funds.

The FHA's position could also undermine the FHA's goal of awarding contracts only to responsible bidders and may risk actual, or the appearance of, corruption in the process of choosing bidders. Without rules prohibiting ''pay to play'' arrangements, states may deem entities ''responsible'' not because they have displayed any objective characteristics of responsibility, but rather because they have made contributions to government officials. Federal ethical standards should provide a floor beneath which a state may not go, but federal law should not be used to restrict a state from implementing stricter ethical standards that it deems necessary to protect the integrity of its government.

Senator Corzine's amendment proposes that a provision be added to the Safe-Tea Act of 2005 stating that ''[n]othing in this section may be construed to prohibit a state from enacting a law or issuing an order that limits the amount of money an individual, who is doing business with a state agency for a federal-aid highway project, may contribute to a political campaign.'' For all the reasons discussed above, we urge you to adopt the amendment to ensure that federal highway funding provisions are not wrongly interpreted to permit interference with state efforts to both prevent corruption or the appearance thereof and restore public confidence in its government.

Sincerely,

SUZANNE NOVAK.

PUBLIC CITIZEN, COMMON CAUSE, PUBLIC CAMPAIGN, DEMOCRACY 21, CENTER FOR CIVIC RESPONSIBILITY,

April 28, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment.

DEAR SENATOR: Next week you will be considering the ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005'' (Safe-TEA Act). Public Citizen, Common Cause, Democracy 21, Public Campaign and the Center for Civic Responsibility urge the Senate to adopt the Corzine ''pay-to-play'' amendment to the bill respecting states'' rights to address the problem of corruption in government contracting.

Sen. Jon Corzine's amendment proposes that a sentence be included in the Safe-TEA Act, as was done in the House version of the bill, allowing states to implement a very narrow and limited reform of government contracting procedures: restricting potential government contractors from making large campaign contributions while negotiating a government contract to those responsible for awarding the contract.

Known as ''pay-to-play,'' many state and local governments are being burdened by the all-too-common practice of a business entity making campaign contributions to a public official with the hope of gaining a lucrative government contract. This practice of attempting to skew the awarding of government contracts in favor of large campaign contributors has taken a serious toll on public confidence in state and local governments across the nation.

Last year, two governors in one week—Gov. George Ryan of Illinois (once considered for a Nobel Peace Prize) and Gov. John Rowland of Connecticut—lost their careers in public service due to pay-to-play scandals. A trial is currently underway in the City of Philadelphia concerning corruption charges in the awarding of government contracts with some members of Mayor John Street's administration. Similar scandals have recently racked California, Hawaii, New Jersey, and the City of Los Angeles.

Unfortunately, the Federal Highway Administration (FHWA) has decided to make it difficult, if not impossible, for states to address this serious problem. For example, the FWHA has decided to punish New Jersey for reforming its contracting system by withholding federal highway funds from the state. We believe you will agree with us that this federal intervention is unjustified and counterproductive. That is why we urge you to support language that makes clear that states have the right to ensure that their contracting procedures conform to the highest ethical standards and offer the best value for taxpayers.

New Jersey Gov. Richard Codey reluctantly suspended the state's pay-to-play rules for competitive bid contracts pending the outcome of a court challenge to the FHWA decision. [New Jersey v. Mineta] ''This is a temporary measure forced on us by the federal government,'' Codey said. ''I am not happy about it. In making this necessary, the federal government is dead wrong, but I cannot jeopardize nearly $1 billion in federal transportation funds.''

The FHWA has placed itself in the odd position of imposing its preference for a disclosure-only regime on states and localities that have decided a stronger pay-to-play policy is necessary to address their problems of corruption in government contracting. As the FHWA memorandum opines: ''. . . the disclosure of lobbying and political contribution efforts for the year preceding a contract bid is a reasonable means to meet the DOT's Common Rule requirement that the city assure that its contract award system performs without conflict of interest. This is distinct from a provision that actually excludes those making otherwise legal contributions from competing for a contract.''[2]

Many state, local and non-governmental jurisdictions strongly disagree with the FHWA: disclosure is necessary but not sufficient to end actual or apparent corruption in government contracting. Instead, New Jersey and four other states, the federal government and the Securities and Exchange Commission, along with dozens of local jurisdictions, have opted for a narrowly-tailored system of contribution restrictions on government contractors, in addition to disclosure requirements, as a more effective means to curtail pay-to-play abuses.

Sen. Corzine has introduced the pay-to-play protection amendment before you this week, which would add to the Safe-TEA Act: ''Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.''

Pay-to-play restrictions are far from draconian measures. They are a narrow remedy that focus exclusively on a specific problem. Pay-to-play restrictions are easy for the business community to live with—the SEC's Rule G–37 championed by former SEC Chair Arthur Levitt, which served as a role model for New Jersey's pay-to-play policy, has not resulted in draining the pool of bond bidders—and pay-to-play restrictions are limited in scope and constitutional.

The Federal Highway Administration may believe it knows better than the states how to address their problems of actual and perceived corruption in government contracting, but the FHWA has not yet had to suffer the consequences of corruption scandals that the states have faced. The Senate should join the House and include this amendment to the Safe-TEA Act of 2005 allowing the states the authority to assure their citizens that contracts are awarded on merit.

For more information, please contact Craig Holman, Public Citizen, at 202–454–5182.

Respectfully Submitted.

Mr. CORZINE. Mr. President, I also want to note the House of Representatives included a similar measure in its version of the Transportation bill. It was a bipartisan amendment sponsored by New Jersey colleagues, FRANK LOBIONDO, a Republican, and BILL PASCRELL, a Democrat. This was passed unanimously, the same language, by the House.

In my view, this is an imperative step to allow States to have better control and more transparency and honesty in their contracting processes. I think it will move to save money for our States and put in place a greater sense of credibility for the public when it deals with its oversight of public contracting. I think we owe the taxpayers this, and I urge my colleagues to support the Corzine-Lautenberg amendment. We should join the House, in my view, in instituting this ability for States to control their own contracting process.

I yield the floor.

I understand my colleague, Senator LAUTENBERG, along with our other colleagues who left the Senate at the time of the recess, will be returning to speak to this amendment. I will yield the floor, but I would appreciate it if we could reserve the right of Senator LAUTENBERG, upon his arrival, to come back and be next on the queue to speak.

The PRESIDING OFFICER. Is the Senator asking unanimous consent in a formal request?

Is there objection to the Senator's request to allow Senator LAUTENBERG the ability to speak when he returns to the Capitol?

Mr. BOND. I would amend that request to say, when I am finished speaking, Senator LAUTENBERG may speak.

The PRESIDING OFFICER. Is there objection? Is there objection to the request as modified? Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, there are a number of things that need to be cleared up as we consider this amendment. First, the Senator from New Jersey has mentioned that several States have their own pay-to-play restrictions. But according to the Federal Highway Administration, those States are ones that are restricting contributions where there are not competitive bids. They are talking about no-bid contracts.

I do not doubt that New Jersey has had problems with no-bid contracts. I will leave it to my colleagues to discuss some of those problems. What we are talking about is changing the competitive bid system so that one State

can opt out of a mandate that the Federal Government has imposed. That mandate is, when using Federal aid to highway dollars, you have to bid it competitively because when we as national taxpayers are funding projects, then we have a right to see that they are done on a competitive-bid basis, to make sure that the Federal taxpayers get the best bargain for their money.

The name of my colleague, the other Senator from New Jersey, is attached to the amendment. I find it interesting that his reputation is one of sanctioning and penalizing States that do not conform to Federal laws, so it was alarming to me to see this amendment from the New Jersey Senators that will exempt them from complying with Federal regulations. In my State there are a lot of things our chosen Representatives, the people who serve Missouri in the Missouri General Assembly, choose not to do. There are various mandates that impose burdens on our State that will limit its ability to get funds. If we are going down the road of exempting our States from mandates of the Federal Government on Federal highway aid dollars, I think the Missouri General Assembly and the Missouri Governor would pass along to me quite a number of mandates they wish to have taken off of their backs.

We just passed another mandate to take $900 million out of the highway trust fund to pay for storm water improvements for local governments. I think that is an unfortunate mandate; it was adopted by a very close vote. I hope we will be able to revisit it. But when you start exempting a State from the competitive bid contracts to allow them to impose their own campaign finance laws through the Federal highway aid system, that, to me, does not seem to be a proper use of the Federal highway tax dollars. We have a right to expect that we get the best bargain for the money and that is through competitive bids.

This amendment, as I read it, limits competition and changes the current Federal process. Political contributions have absolutely no effect on the selection of Federal aid highway projects because, unless otherwise approved by the Secretary, construction projects are awarded only on the basis of the lowest responsive bid that meets the established criteria, based on the State's department of transportation engineering estimates.

Very simply put, unless the Secretary of Transportation waives it, you have to take what the State Department of transportation has put together in its request for bids, and make the best bid complying with that, that is responsive, at the lowest price.

That does not offer opportunities for corruption. There may be people in New Jersey and other States who find other ways to corrupt the system. I do not deny that. I think they should be punished. But there is no reason, in my view, to repeal the competitive bid standards. If States want to regulate their State projects by limiting competition, by all means, they should be free to do it.

If it is a State contract, States can put in anything they want. There are other States, as I mentioned earlier, that currently have pay-to-play laws in place, but there are four States that have pay-to-play laws, two of which—Ohio and South Carolina—only apply to no-bid contracts having no effect on highway and transit projects because these are let under the competitive low-bid method.

I believe the Senators from New Jersey think they are being singled out by the Federal Highway Administration as Kentucky and West Virginia have similar pay-to-play laws—but both Kentucky and West Virginia have exceptions to their provisions. Kentucky excludes contracts awarded competitively on the basis of the lowest and best bid, while West Virginia's exception is the restriction that only applies during negotiation and performance of the contract.

These provisions are clearly different from what the Senators from New Jersey seek for their State. To open the process in other States, we do not need to have Federal aid highway dollars used as a means of changing campaign finance laws or changing the competitive bid process which gives us the best bid on the projects that are funded with Federal dollars.

I don't want to see State laws preempting Federal laws, but if we are going to go down that road, as I said, I have a number of amendments, and I would certainly ask support for all the areas that Missouri wants to exempt from some of the mandates, many of which I think are unnecessary from the Federal Highway Administration laws.

At this point, I urge my colleagues not to support this amendment because it provides a very different standard which New Jersey is attempting to use in its award of competitive-bid contracts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. If I might ask the Senator from Missouri, if he has read the New Jersey legislation, in no way by my reading of that legislation does it supersede the competitive bidding requirement.

Mr. INHOFE. Will the Senator yield?

Mr. CORZINE. Yes.

Mr. INHOFE. Mr. President, I ask unanimous consent, notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 3 o'clock. We are extending it from 2 o'clock to 3 o'clock because of the evacuation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. I see the Senator from Missouri is no longer in the Senate, but I make very clear the amendment Senator LAUTENBERG and I are proposing in no way undermines the standard that there need be competitive bids in the Federal highway funds or in Federal funds that mix both State and Federal dollars.

This is about contracting rules that would encourage competition, not discourage competition. I believe if we were put side to side with Kentucky and West Virginia, we would find the New Jersey contracting rules are parallel. We would find this is one of the reasons the House unanimously agreed to this because it is an additional step that in no way undermines the standards that exist by the Federal Government.

Again, it reflects the desires of the State legislature and the Governor to have stronger, stricter rules on contracts administered by the State.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I start by commending the chairman of the Environment and Public Works Committee for his work on behalf of getting the funding raised for the Transportation bill.

It is critical. There is not a State that would not like to see more money for highways, transit or whatever else they do—perhaps even for long-distance rail service.

The manager of the bill, the chairman of the committee, had to wrestle with not only his conscience, but colleagues who felt differently. There were over 20 ''no'' votes. I wonder if those Senators would forgo the extra money that resulted from the increase in the size of the bill. Perhaps that could be polled.

I thank my colleague, Senator CORZINE, for generating this amendment which I share in sponsoring to ensure integrity in highway contracting. My friend and colleague from New Jersey has always fought against corruption in public activities and contracting. I am proud to stand and fight alongside him to make sure every State has the right to make choices about how it conducts its campaign financing laws and how it looks to better management of the process so corruption is avoided. That is what this is about.

One has to look at the bill. It is relatively simple. Frankly, I thought it would be something that could be accepted on its face by unanimous consent. There is no punitive measure in here.

I understand our colleague from Missouri said I was big on sanctions. How right he is. I am big on sanctions. We raised the drinking age to 21. When our colleague, Senator DOLE, was the Secretary of Transportation under President Reagan, we sanctioned States who did not put that into law.

Guess what the outcome is. Twenty thousand young people have been saved over the last 21 years. That is what the sanctions did. Would it be better to not have sanctions and have the freedom for the teens to get on the highway and kill themselves? I don't think so. It

worked. We tried the carrot. But there were not enough carrots to take care of it, so we had to use the stick. That is what you do. That is what the red lights are for. It is a stick. It says: Do not cross over when traffic is going the other way, et cetera.

We are a nation of laws. That is what the structure of our society is. There are sanctions against those who would try to buy a gun permit when they are spousal abusers. There are sanctions. They go to prison. Yes, I like that kind of sanction.

When we look at what we are trying to do, unfortunately, the U.S. Chamber of Commerce says it should not happen, it reduces competition. Nothing could be further from the truth because now the little guys who, in their judgment, make a campaign contribution—we foster that notion around here: Contribute if you can. Contribute even if you cannot, we sometimes say. But it happens. Money flows. So we say to some small contractor or some attorney or some engineer who has a two-person business: Well, maybe there is an exemption for small business. But, on balance, they are saying the smaller companies cannot make a contribution because then they would be barred from competing. Competing with the big guys? It is outrageous.

So this amendment fixes a problem in Federal highway law that actually prevents States from taking effective steps to curb contracting abuses.

Earlier this year, the Federal Highway Administration withheld some $250 million in highway funding from the State of New Jersey. It had already been allocated. What happened? We had to change the law. We had to open a loophole so people could contribute, even though our Governor at the time and the legislature agreed: No, we should not permit it. I am not defending it. I am saying I defend States rights. And many of the people here, particularly our friends on the other side, defend States rights. I think the State ought to be able to decide whether it wants to clean up the campaign finance laws.

Spokesmen for the FHWA said a State contracting rule designed to prevent actual and potential corruption was ''inconsistent'' with current Federal law. I do not know where they get that one.

What had New Jersey done? The State had simply banned certain large political contributions by recipient of State contracts. Its mission was to ensure fairness and transparency in the contracting process, and our State ought to be commended for it. Instead, New Jersey was punished for exercising its own judgment. The Governor signed it. The legislature passed it, the Governor signed it, and it became law. Why cannot we do that?

The relevant Federal law, section 112 of the highway title, calls for competitive bidding. The administration has taken the strict view that if some bidders are excluded, that could limit competition. Would we say that in the vetting of a company's executive leader, if he had a criminal past and they did not make a contribution, it would be all right? No, it certainly would not be all right for that company to start doing State business. But the fact is, if the playing field is tilted toward one company, there is no true competition. Maybe the big guys can afford to do that. They can rule the roost. But that is what our State wants to protect against.

States should not have to choose between receiving Federal highway dollars they need and restoring public confidence in the Government contracting process. What an anomaly we had here a little while ago. We had people voting to increase highway spending when it is threatened that the President is going to veto it, and we are way over the limit the White House proposed for the highway bill. Seventy some Senators said: Oh, yes? Impose limits? Well, we are not going to stick with your limits. We are going to raise the limits because our States need bridges and highway fixing and investments in transportation. That is what we want—70 some Senators. So it was not all Democrats. It was a mix.

It is hypocritical to continue to prohibit States from taking effective measures to maintain the integrity of their contracting process. Federal law already prohibits political contributions from Federal Government contractors. So why shouldn't States be allowed to do it, if they want to—one State by itself, any State that wants to do it? This amendment simply allows States to enact similar reforms when they so choose.

The House of Representatives has already approved a similar provision in its version of the transportation bill. I ask my colleagues to support this amendment to promote good Government, to promote competition. It is a vote for States rights, and a vote against corruption in public contracting.

Once again, I commend my colleague from New Jersey, Senator CORZINE, for his initiative.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri.

Mr. TALENT. Mr. President, I thank the Chair for recognizing me.

I want to take a few minutes, if I can, to pause from this debate on the amendment to make a few comments about the underlying highway bill. I wanted to have a chance to do this when we debated the motion to waive the budget point of order, but I was not able to do so because of the unanimous consent agreement that limited time for debate.

So I thought I would do it now because I am very grateful to my friends, the managers of this bill on both sides of the aisle, Senator JEFFORDS and Senator INHOFE, my good friend and a zealous worker for better transportation infrastructure, Senator BOND and, of course, Senators GRASSLEY and BAUCUS for their amendment which we adopted earlier increasing the size of this highway bill. I thought it was important that those of us who feel strongly about this come down and say so.

We have a problem with transportation infrastructure. The problem is getting to be so big that awareness of it has penetrated even here in Washington. But everybody in America, at least everybody in Missouri I talk to, already knows about it, and has known about it for a very long time. Because they have to drive on these roads. They have to use the rail and the transit. For them, it is not an abstract question of public policy. For them, it is a question of getting where they need to go, to do what they need to do, safely and on time, to make this country run. It is getting harder and harder because the roads are no good.

I am going to try to contain my frustration about this issue. It is hard because this is not rocket science. A lot of the issues we confront here are very difficult.

This really isn't that difficult. We know how to build roads. We know we need to do it. The question is whether we have the will to do what we obviously need to do and what will empower our people to help us create the wealth and opportunity that will then enable us to do the other things we need to do.

I said there was a problem before. The statistics have been repeated often enough, but I guess in the Senate nothing is ever said quite enough so I am going to repeat them. Thirty-two percent of the Nation's roads are in poor or mediocre condition; 37 percent of the urban roads are in poor or mediocre condition; 28 percent of the bridges are substandard. I can show you some substandard bridges in Missouri. As a result of this, our Nation loses about $65 billion a year in lost man-hours and lost productivity because people are stuck on the highways. A recent report said it was three times what it used to be in 2003. We lose $50 billion a year in extra maintenance costs because our cars and our vehicles are damaged as a result of the bad roads.

Who among us has not had the experience of hitting a pothole and saying to ourselves, ''There goes that shock absorber. That is another front-end alignment I will have to get''?

This is common knowledge throughout America. The Department of Transportation studied it in 2002, 3 years ago. The problem hasn't gotten any better since then. They concluded—and this is a rather big study—that $375 billion is what we needed in the next highway bill to address the problem. We don't have $375 billion in this bill. We have under $300 billion. We have less than we had last year. We have more than we would have had, if not for the heroic efforts of the bill managers. But we don't have enough even with what they have added. Yet

people on this floor say that this is too much.

This is a problem I have been working on with my friend from Oregon, Senator WYDEN. We believe it is time to begin using bonding as part of our Transportation financing package. We have proposed the Build America Bond Act. A number of people have joined us in cosponsoring the bill. My friend from New Jersey is one of them. This is legislation that would create a federally chartered, nonprofit corporation that would issue about $38 or $39 billion in bonds and set aside $8 or $9 billion of that in a fund which would then accumulate interest over time and be used to pay off the principal. Then we would have $30 billion for immediate investment in the Nation's transportation infrastructure.

We could get that money out in the next construction season or two. We could begin taking some of these vital projects that are constantly moved to the right, moved from 2010 to 2015, to 2020, and start moving them back to the left on the time line. We could build some of the bridges we need, fix some of the roads that are substandard.

We also have a provision in the bill that says some of the bonds have to be in low enough denominations that Americans can purchase them, average folks can go out and buy a $50 bond, a $25 bond, knowing that they are investing in American roads, transportation infrastructure, and jobs to make America competitive for the future.

I am pleased that we have made some progress on this. The bill managers were good enough to include a provision for the underlying corporation in the bill. We don't have authority to issue the bonds yet, but we have the corporation in the bill.

I am also very grateful to the managers of the bill for including in the substitute amendment my amendment to authorize private activity bonds, $15 billion in transportation highway infrastructure bonds.

These bonds could be issued in a partnership between States and localities and private companies for specific projects. The localities would repay the principal through a variety of revenues, including annual appropriations or charging rent for the infrastructure that was built. Since the bonds are tax exempt, it means the holders would pay no taxes on them to the Federal Government. They would be preferred by the market. We could get $15 billion in a kind of bond money out there right away to begin addressing the problems that the country is facing.

Nobody really argues with what I have said. That is one of the things that is frustrating. The people who supported the budget motion, who want the bill to remain small, don't argue that there is no problem. You can't argue the fact that there is a problem. What they say is: We can't fix the problem because we have a deficit. We can't spend more money on transportation infrastructure because we already have a deficit.

Investment in transportation infrastructure is dynamic. That means it helps grow the economy. It helps produce revenue. We understand that in every other context. Nobody argues with that in any other context except the highway bill. All the economic models say about $1 billion in investment in transportation infrastructure produces 47,500 jobs. Every dollar invested returns $5.75. That is the multiplier effect.

The same people who are saying we can't spend money on highway and transportation infrastructure will stand up in the context of a trade bill and say: The reason it is OK to pass an open trade bill—and I have supported many of them—even though we will be trading with countries that have lower wage rates than we do, is that we are still competitive because we have a more sophisticated financial system, a more sophisticated telecommunications system, and a more sophisticated transportation system. They are right. That is one of the reasons we can be competitive with countries that pay lower wage rates because we can get our products to market because decades and decades and decades ago other Senators and other Congressmen had the foresight to invest in transportation infrastructure.

I know we have a budget deficit. We have a transportation deficit. It isn't going to get better if we don't do anything. Saying we can't invest in transportation infrastructure because we are worried about the budget is like a farmer who is hard pressed saying: You know what, I am afraid my cash flow isn't what it should be. I am not going to buy fuel for the combine.

It is like a homeowner saying: The budget is tight. I am really hard pressed. I am not going to fix the hole in the roof because that might cost money.

This is a problem that is not going to get better if we don't do anything about it. Every 5 or 6 years we pass another highway bill, and the people who are concerned about the cost say: It is bigger than it was 5 or 6 years ago. Yes, it is bigger. Every year, even though the highway bill is bigger, the gap between what we are spending and what we need gets bigger, too.

This year, even under the amendment we adopted earlier, we have about a $80-billion gap. I guarantee, if we don't do something about it, 5 years from now it will be bigger than that.

What do the people who opposed the amendment on budget grounds want to do? What can you do to build more transportation infrastructure? You can raise taxes. They don't want to do that. I understand that. It is hard to raise gas taxes when gas prices are up. That is a hard thing to do. They don't like bonding either. That is out. They don't want general revenue to be used for highways. That is out. Now they are saying they don't want other streams of revenue. Even though it would pay for it, they don't want that used either. So they are all for fixing infrastructure as long as we don't use taxes, bonding, general revenue, or any other revenue to do it.

Stop and ask yourself a question for a second: What is the domestic achievement of the Eisenhower administration that people remember? The building of the interstate highway system. Roll Call magazine, one of the Capitol Hill magazines, did a survey of congressional scholars and asked them what the most significant bills were that the Congress passed in the last 50 years. No. 4 on their list was the interstate highway bill passed in the 1950s, which they pointed out intensified economic growth, boosted domestic tourism and made possible just-in-time manufacturing processes.

How can anybody say that investment in transportation infrastructure does not produce economic growth?

I know we have a vote coming up soon. I will close by saying a couple things. In the first place, the bill where we now have it—I was going to say it is the least we should do, but the truth is it is not as much as we should do. I urge the bill's managers to go to conference with this bill as it now is and do everything possible to hold this number or, if possible, find some way to inject more money into transportation infrastructure this year. I know they are committed, and they are going to try to do that. I urge them to stand by their commitment. This is worth doing, and it is worth doing now. We cannot afford to give another 5 or 6 years away to the locusts and then come back here and face the same problem we have now, except it is bigger.

I believe in the people of this country. I am not one to focus on the problems we have. Any Senate, any time in the Nation's history, if it wants to focus on the problems of the country, can get discouraged. I know we are fighting a war now, and we have education issues and health care issues we have to address, and they are all very big.

The reason I am optimistic is I believe in the American people. I believe in the productivity and ingenuity of the American people. The answer to all these problems, broadly speaking, is to empower them, to let them have the resources they need—which is one of the reasons I have been for tax reduction—so they can make the economy grow. Let them do what they do in their everyday lives, raising their families, doing their jobs, running their small businesses, to keep the economy growing and make us prosperous and strong and free. But the American people cannot on their own build roads. They can do a lot of things on their own or together in private businesses or associations of one kind or another, but they cannot build roads. That is a job the Government has to do. We will deal with the transportation deficit, and the American people will deal with the budget deficit as well if they can

get to work in the morning. Let's help them do that.

I congratulate the managers on adopting the amendment. I hope we can do even better in conference.

I yield the floor.

Mr. INHOFE. Mr. President, I do have a statement I wish to make in opposition to the Corzine amendment; however, the junior Senator from South Dakota is here. I would like to yield to him for up to 6 minutes.

The PRESIDING OFFICER. The Senator does not have the right to yield time.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I thank the distinguished chairman for his good work in moving this bill along. This is legislation that is long overdue. It is time that we move forward to vote so we can get help to these highway departments across this country, particularly in States such as mine, Northern States, where we are going to lose the construction season if we don't get something done, get a bill passed, and get a permanent authorization in place.

I speak in opposition to the pay-to-play amendment that has been offered to the Transportation bill.

For my colleagues who might not be aware of this issue, the Acting Governor of New Jersey issued an executive order last September which blocks anyone who makes political contributions to state officials, candidates or parties in excess of $300 from bidding on any contract for services, material, supplies or equipment or to acquire, sell or lease any land or Federal building where the value of the contract exceeds $17,500.

While it is clearly New Jersey's prerogative to institute such pay-to-play laws when it comes to State contracting, this New Jersey executive order effectively violated the free and open competition provisions governing Federal Aid Highway and Transit Contracting and went much further than pay-to-play laws in other States.

It's my understanding that New Jersey's Acting Governor, Richard Codey, issued this executive order in response to corruption and kick-backs that were uncovered with respect to no-bid State contracts.

Seeing that almost all of the contracts that occur under the Federal Highway and Transit programs are based on sealed low-bid contracts, the Senate should not adopt this amendment because it would undo the existing uniform rules that all States must follow when it comes to Federal contracting.

Congress has specifically stated in past highway and transit authorizations that we should encourage fair and open competition.

Congress should encourage competition by cultivating the broadest group of competent qualified contractors to do the work. We want to ensure that we are getting the best work done for the best price.

The low bid system was used to build our interstate system and National Highway System. It provides the highest quality product at the lowest possible price through competition. It should be maintained and strengthened, not weakened by adopting the amendment by the Senator from New Jersey.

Soon after New Jersey's Acting Governor issued his Executive Order last year, the U.S. Department of Transportation was forced to withhold a portion of New Jersey's transportation funding because the State was not complying with Federal contracting requirements—this was done after the U.S. Department of Transportation attempted to work this issue out with New Jersey Officials.

Soon thereafter, the New Jersey legislature stepped in and passed a bill on March 22, 2005 that excludes Federal aid highway funding from the Governor's previous pay-to-play executive order—thereby restoring New Jersey's Federal transportation funding.

I share the Senator from New Jersey's concern about illegal activity when it comes to no-bid contracting. However, there is nothing that currently prohibits states from taking action to prosecute those responsible for such illegal activities.

Further, since the current low-bid sealed contracting process used on Federal transportation contracts protects against instances of corruption or impropriety, and the fact that the New Jersey legislature has ensured that its pay-to-play regulations don't impact Federal transportation contracts, I'm a little puzzled why this amendment is needed—unless of course the Senator from New Jersey is seeking to change the existing Federal contracting process.

Federal contracting law already includes a process for the exclusion of contractors who have acted illegally—and the Federal Government also has a debarment process that prohibits contractors who have committed fraud or bribery from bidding on future contracts.

Because the State of New Jersey is currently suing the U.S. Department of Transportation in Federal district court concerning the previous withholding of Federal transportation funds, now is not the time for the Senate to weigh-in on this matter. The Senate should allow the court to hear the case on its merits.

My colleagues will also be interested to know that the Senate Environment and Public Works Committee rejected this amendment when we marked up the transportation bill on March 16.

The U.S. Department of Transportation has informed me that there has not been one single case of kick-backs or corruption with regard to low-bid Federal aid highway contracts in New Jersey.

Most importantly, the U.S. Department of Transportation opposes this amendment and has informed me that the Corzine Amendment would create an unmanageable patchwork of local restrictions and requirements when Federal aid funds are used on a project.

I urge my colleagues to vote against this amendment and to allow the Federal Highway Administration and those State governments that are so interested in getting a highway bill put into place to enable them to address the critical transportation needs this country faces, to get this highway bill passed and defeat this amendment.

I yield back the remainder of my time.

Mr. INHOFE. Mr. President, first, I agree with the comments of the Senator from South Dakota. He has dramatically shortened my speech against the Corzine amendment because he said some things I would have said. I emphasize that the problem is not with sealed bids, it is with no bids. It could be that they have unique problems in New Jersey, but I would not want those problems that are there to encumber what we are trying to do in States such as Oklahoma and New Hampshire and South Dakota. There had been abuses that are pretty well known in New Jersey.

An example is the case of the law firm of DeCotiis, FitzPatrick, Cole & Wisler, which has reportedly thrived by exploiting a system that encourages politicians to reward their political contributors with State contracts that are no-bid contracts—not low-bid but no-bid contracts.

The Record, a New Jersey paper which did an extensive investigation into this DeCotiis firm and their relationship to public officials, stated in a December 2003 article that:

> A sweeping review of DeCotiis's work for towns and public agencies shows how high rollers in this pay-to-play sweepstakes reap huge returns from investments in the right politicians. In a study of DeCotiis's legal bills for towns and public agencies across New Jersey, as well as interviews with dozens of elected officials, the Record has found that the DeCotiis firm billed at least 128 government entities for nearly $26.6 million during the 2½-year period starting January of 2001. From Alpine to Atlantic City, in 15 of New Jersey's 21 counties, and in many departments of State government, DeCotiis's lawyers are charging the taxpayers for contracts that, under Jersey law, can be awarded without competitive bidding.

I have other examples of corrupt kinds of dealings, but I believe my point has been made that here the issue is with no-bid contracts, not sealed-bid contracts.

I question, also, the constitutionality of something in terms of the first amendment, but that has not even been discussed.

There could be a problem. I would be sympathetic to the problem and perhaps the Senator from New Jersey will be holding a position in the not too distant future where he can deal directly with some of the problems that are within the State of New Jersey but are not all over the country.

So I join my colleague from South Dakota in urging the defeat of the

amendment, and at the appropriate time I plan to move to table the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I appreciate the comments. I can understand the point of view if the bipartisan legislation from the State of New Jersey would in any way interfere with low-bid, sealed contracts on Federal projects. I would not be in favor of this, either. No-bid contracts should not be an accepted way of doing business in government. At least from the legal advice and understanding that I have of the New Jersey legislation, it does the opposite. It requires that it would conform both to Federal regulations and adds the additional element that there be restrictions on those participating who have contributed more than $300 in a contract that is over $17,500.

Practically speaking, the reality is that the Department of Transportation, and Republican and Democratic administrations in New Jersey—and I suspect this can very well be the case in other places—sets specifications. Those who both lobby and contribute often arrange those specifications, so there are situations where those who have the ability to participate in the bidding contracts are limited and those specifications are written in a way that gives a bias to the contracting exercise. All this legislation that the State of New Jersey is asking for, its States rights ability to impose, are supplemental to the rules and regulations that the Department of Transportation is taking, and I believe it will protect the public and enhance the confidence for the State of New Jersey.

It is not an imposition on any other State. They do not impose these pay-to-play rules. It has no impact on another State. We are only asking for the ability of the State of New Jersey to put down the rules that the State legislature, on a bipartisan basis, believes will lead to lower costs and greater transparency to the bidding process.

I understand there is a difference of view, but I feel strongly about it and ask my colleagues to consider the fact that this is a supplemental and in no way undermines Federal regulations, does not impose this standard on any other State, and does go a long way toward dealing with concerns that people on both sides of the aisle in my State believe are undermining public trust and raising the cost to the Federal Government and the State government in doing business in our State.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I appreciate the comments, even though I disagree with them, of the Senator from New Jersey. I know he is sincere. I know there is a problem and he is trying to correct the problem and there is an honest difference of opinion.

I ask unanimous consent that a letter from the U.S. Chamber of Commerce opposing the Corzine amendment, a letter from the American Road & Transportation Builders Association opposing the Lautenberg-Corzine amendment, and also a letter from the Transportation Construction Coalition, which is, I believe, almost every labor union in the United States, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, May 10, 2005.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: As the Senate continues debate on H.R. 3, the reauthorization of the Transportation Equity Act for the 21st Century (TEA–21), the U.S. Chamber of Commerce strongly opposes an amendment by Senators John Corzine (D–NJ) and Frank Lautenberg (D–NJ) that attempts to change federal competitive highway and transit contracting rules.

For over 25 years, federal law has forbidden states from implementing ''pay-to-play'' provisions for state highway and transit construction contracts (23 USC §112). Federal highway and transit contracts are awarded in an open-bid environment, and it is unnecessary to have an individual state attempt to change these federal contracting rules.

In November 2004, the state of New Jersey passed an executive order with language that included federal highway and transit contracting in the state's ''pay-to-play'' provisions. On January 21, 2005, the U.S. District Court for New Jersey ruled against the state and reaffirmed the federal statute, which led to New Jersey's final ''pay-to-play'' law continuing the longstanding exemption of ''pay-to-play'' for federal competitive highway and transit contracting.

Supporting the Corzine/Lautenberg amendment would adversely affect the ability of business leaders to support candidates, and thus, undermine the importance of allowing business executives and their employees the ability to legally participate in the political process, while other groups would not be impacted.

The U.S. Chamber of Commerce will consider using votes on or in relation to this issue for inclusion in our annual ''How They Voted'' ratings. The U.S. Chamber of Commerce is the world's largest business federation representing more than three million companies and organizations of every size, sector and region.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, May 9, 2005.

DEAR SENATOR: As the Senate continues debate on H.R. 3, the federal surface transportation program reauthorization bill, the American Road & Transportation Builders Association (ARTB) urges you to oppose an amendment by Senator FRANK LAUTENBERG that would modify federal transportation procurement standards to allow states to penalize transportation construction firms that participate in the political process.

The Lautenberg amendment would allow states to preclude individuals who have made financial campaign contributions to state and local officials from competing for federal-aid highway and transit construction work. By excluding individuals who exercise their right to participate in the political process, the amendment would contradict the open competitive bid system of procurement that has been a hallmark of the federal transportation programs for almost 50 years. Under this system, contracts are awarded to the lowest qualified bidder. Political contributions, or the lack thereof, have no role in the awards outcome.

An ARTBA analysis of Federal Highway Administration (FHWA) bid data for the period 1958 to 2003 found that winning highway contractor bids on federally-funded projects have averaged 6.7 percent below the government's own internal cost estimates for the advertised jobs. In total over the 45-year period, the winning contractor bids have come in $22.8 billion under estimated cost.

This analysis proves that the low-bid system works in the public interest. It also shows that highway contractors have been giving the public outstanding value for their tax dollars. Transportation construction industry contractors routinely build highways and bridges that meet exact government specifications for materials, quality, durability and environmental protection for substantially less than the government expects to pay.

Consequently, we urge you to protect the integrity of the open competition, low-bid system for transportation construction work and oppose the Lautenberg amendment to H.R. 3.

Sincerely,

T. PETER RUANE,
President & CEO.

TRANSPORTATION CONSTRUCTION
COALITION,
May 9, 2005.

DEAR SENATOR: The 28 national associations and construction unions of the Transportation Construction Coalition (TCC) urge you to oppose the Lautenberg amendment to H.R. 3, the highway and transit program reauthorization bill. The Lautenberg amendment would restrict competition for federal highway and transit work and apply a nationwide solution to a state-specific issue.

The Lautenberg amendment would allow states to prevent companies from performing federal-aid highway and transit work funded by this bill if they made legal contributions to state and local elected officials. The amendment is based on a New Jersey law that significantly limits competition for transportation construction work by blocking any individual that made political contributions of more than $300 from bidding on any contract that exceeds $17,500.

The ''pay to play'' laws of other states typically focus only on no-bid contracts. The New Jersey version, however, applies to a much broader class of projects. Highway and transit projects are typically procured using the lowest competitive bid method, which requires an objective and public evaluation of sealed bids.

Congress has specifically stated in past highway and transit reauthorization bills that states should encourage fair and open competition. States accomplish this objective by cultivating the broadest group of competent qualified applicants to perform transportation construction work and by excluding companies that have acted illegally. The low bid system was used to build the nation's highway system and provides the highest quality product at the lowest possible price.

We urge you to oppose the Lautenberg amendment to H.R. 3. The amendment would significantly undermine the federal commitment to the competitive bid system.

Mr. INHOFE. Mr. President, I move to table the Corzine amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), is necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—57

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Dorgan	Murray
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Reid (NV)
Bond	Frist	Roberts
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Hagel	Shelby
Burr	Hatch	Smith
Byrd	Hutchison	Specter
Chambliss	Inhofe	Stevens
Coburn	Isakson	Sununu
Cochran	Jeffords	Talent
Conrad	Kyl	Thomas
Cornyn	Landrieu	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

NAYS—40

Akaka	Feinstein	Mikulski
Bayh	Gregg	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed (RI)
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Snowe
Corzine	Levin	Stabenow
Dodd	Lieberman	Wyden
Durbin	Lincoln	
Feingold	McCain	

NOT VOTING—3

Coleman	Dayton	Domenici

The motion was agreed to.

Mr. INHOFE. 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.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there has been a great misunderstanding around here as to how we came up with offsets, how we are going to take care of paying for an additional amount of money in this package.

I compliment the chairman of the Finance Committee, Senator GRASSLEY, along with the ranking minority member of the committee, Senator BAUCUS, for the hard work they have put in on this legislation and, quite frankly, disagree with the criticism to which they have been subjected.

I want to reemphasize, if I could, that it is important we get this legislation done. I am very pleased we have two more amendments that are down here. The deadline for the filing of amendments is now over as of right now. We do have several amendments. We are going to invite these people to bring their amendments down. I am pleased there are two amendments that are already down here. We look forward to taking up those amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 625

Mr. LAUTENBERG. Mr. President, I call up amendment No. 625.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DODD, proposes an amendment numbered 625.

Mr. LAUTENBERG. 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 provide funding for motorcycle safety programs in States without universal helmet laws)

At the end of subtitle D of title I, add the following:

SEC. ___. UNIVERSAL HELMET SAFETY STANDARD FOR OPERATION OF MOTORCYCLES.

Section 153 of title 23, United States Code, is amended—

(1) in subsection (a), by striking ''fiscal year—'' and all that follows through ''(2) a law'' and inserting ''fiscal year a law'';

(2) in subsection (f)—

(A) in paragraph (2), by striking ''fiscal year—'' and all that follows through ''(B) had in effect at all times a State law described in subsection (a)(2)'' and inserting ''fiscal year had in effect at all times a State law described in subsection (a)''; and

(B) in paragraph (3), by striking ''fiscal year—'' and all that follows through ''(B) had in effect at all times a State law described in subsection (a)(2)'' and inserting ''fiscal year had in effect at all times a State law described in subsection (a)'';

(3) in subsection (h)—

(A) in paragraph (1), by striking ''subsection (a)(2)'' and inserting ''subsection (a)''; and

(B) in paragraph (2), by striking ''subsection (a)(2)'' and inserting ''subsection (a)'';

(4) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(5) by inserting after subsection (h) the following:

''(i) MOTORCYCLE HELMET USE LAWS.—

''(1) FISCAL YEAR 2009.—If, at any time in fiscal year 2008, a State does not have in effect and is not enforcing a law that makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet, the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2009 under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

''(2) FISCAL YEAR 2010 AND THEREAFTER.—If, at any time in fiscal year beginning after September 30, 2008, a State does not have in effect and is not enforcing a law described in paragraph (1), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

''(3) APPLICABLE PROVISIONS.—Paragraphs (3), (4), and (5) of subsection (h) shall apply to obligations transferred under this subsection.''.

Mr. LAUTENBERG. Mr. President, I offer this amendment to address motorcycle safety on our roads. In 1995, Congress repealed the motorcycle helmet law, which I authored in 1991. Since the law has been repealed, motorcycle deaths have nearly doubled, and my amendment would simply reinstate the helmet law.

Head injuries are one of the leading causes of death in motorcycle crashes. Under my amendment, States that do not require motorcycle riders to wear helmets would have funds, but they would have them shifted to motorcycle safety programs.

Last month, the Department of Transportation released preliminary findings that over 3,900 people were killed in motorcycle crashes last year. This is almost double the number of motorcycle crash victims of 10 years ago when the Federal helmet law was repealed.

If we look at the chart, we see what happened since 1996, the year of operation after the law was repealed. We had a much smaller number, and it grew on a regular pattern up to 2004, the last recorded year.

This is not just a matter of more riders on the roads. The rate of deaths per mile traveled has almost doubled as well. We have learned an important lesson from this data: Helmets save lives. Repealing helmet laws have led to more deaths.

By coincidence, I had a talk with one of our colleagues before when we were voting on the previous amendment. He recalled for me the fact that he had a motorcycle accident. During the time of the fall, he said, as he bounced around the pavement, he thanked the Lord that he was wearing a helmet that had a face piece to it. It saved him from what they said would have been almost instant death.

Funny enough, when people look at me and they see the white hair, they can't believe I am an expert skier, having done so for 59 years. I have two children who are competitive skiers, one lives in Colorado, and I have a granddaughter who is on her way to becoming a competitive skier. We are skiers. Skiing is in our blood, and we ski fast and hard. I had a fall 2 years ago, 2 days after I bought a helmet. I hadn't worn it for the 50-some years before that. When I fell, I fell so hard I did a tumblesalt in the air—and I'm not an acrobat—and I landed on my head. I didn't realize, for a month, I was hurt, until my vision started to blur and my balance was unsteady. I was rushed to a hospital—I was with my wife in New York City—and the next day on an operating table and had what they call a hematoma. Doctors had to go on two sides of my head with

a drill or whatever they use to get there and drain the fluid that had gathered. I thank God regularly that I am in the condition I am after that kind of accident. But the difference was that helmet. I had the helmet 2 days.

I went back to the ski shop, and I said: I thought this was supposed to prevent my getting hurt. He pointed to a tiny crack in the helmet, and he said to me: If you hadn't been wearing this helmet, that crack would have been through your skull, and we would not have been here talking about it. So I am a confirmed user of helmets.

I had been on the board of a hospital in New Jersey and worked very closely with our principal medical school and its hospital. I talked to the emergency room physicians. I know that much of the head and neck trauma that comes about comes about as a result of motorcycle accidents.

A Transportation Department survey showed that from 2000 to 2002, helmet use among motorcycle riders dropped from 71 percent to 58 percent nationally. They stopped using helmets, mostly.

The Transportation Department found that in those States where universal helmet laws had been repealed, helmet use plummeted from 99 percent to 50 percent. In other words, where helmet laws are on the books, almost every rider wears a helmet. Where there is no such law, only about half of the riders are protected against head injury.

My amendment, to be simply understood, would reinstate the minimum safety standard which first was enacted in 1991. This is not a matter of ideology or so-called States' rights. It's a matter of doing what is right. Helmets save lives. Universal helmet laws work.

No matter what some people might suggest, riding without a helmet is not a victimless indiscretion. Motorcycle crashes burden our health care system and the taxpayers unnecessarily. The Transportation Department estimates that unhelmeted riders involved in crashes cost taxpayers $853 million in the year 2002 alone.

Riders without helmets are much more likely to suffer brain injuries, which obviously are often slow healing, with long-time hospitalization. It costs twice as much to treat a patient who does have brain injuries.

I don't think taxpayers ought to be saddled with the costs of motorcyclists who sustain serious injuries because they want to feel the wind in their hair. I urge my colleagues to vote to help save the lives of so many of their constituents who are motorcycle enthusiasts. I once rode a motorcycle. In my earliest moments, I slipped and fell and picked gravel out of my legs for about 2 weeks thereafter. But we don't want to stop the sport. We want to spare the families of the motorcycle riders and their friends from needless loss and to spare taxpayers from bearing the costs of risky behavior.

I want to read a comment that we received. It is by Joe A—to protect his testimony. This is his testimonial to his NXT helmet.

> On May 13th, 2004, I was riding my Harley through the small college town of Newark, Delaware, when a distracted student in the oncoming lane decided to make a left turn about 15 feet in front of me. I was going about 25 miles per hour and she appeared to be doing the same. In an instant, I collided head on, flew off my bike and into her windshield.
>
> I did a 'head plant' which took out the windshield, rolled me over the car and onto the roadway beside the car. This left about a 4-inch gouge in my helmet but no serious head injuries. The paramedics were amazed . . . that I was able to carry on a lucid conversation with them. Thanks to your superior product, I was able to walk out of the hospital about an hour and a half later with no serious injuries.
>
> My doctor told me that without my helmet I would have been dead or had severe brain injury and it's an impressive fact that I'm able to write this e-mail and send pictures three days after the accident. I have no doubt that without your helmet the outcome would have been very different for me.

Mr. President, it makes sense to do what we can to protect the public. Again, this is not telling anybody that they should ride or should not ride. We say, when you ride, don't spend my money, please. Don't burden the Medicare or health care insurance programs with your lingering injury or your death or other family problems. Don't burden us. You have no right to do that.

I urge my colleagues to vote for the amendment. It promotes the minimum safety standard for motorcycles, significant funding which can be used for other health care essential studies on childhood diabetes, asthma, autism, and many other afflictions that wreak havoc on families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the distinguished Senator from New Jersey for bringing his amendment to the Senate. We have been urging Members to bring their amendments to the Senate. I thank him also for the very thoughtful, sincere, and articulate way he expressed and explained his amendment. I disagree, but I know he has strong feelings, and we are anxious to get a vote on his amendment.

It is my hope—and I know the ranking minority member, Senator JEFFORDS, agrees—to get as many of these votes lined up for, perhaps, stacked votes. We do not have a time yet, but I assume that would be acceptable with the author of this amendment to stack these votes with perhaps some other amendments.

Currently, 21 States and the District of Columbia have helmet laws; 26 States have limited helmet laws, including my State of Oklahoma. Ours are for 17 and under. Only four States, as I understand, have no helmet requirement.

As recently as last year when we were discussing the highway bill, the U.S. Department of Transportation released a statement in which they said:

> The administration opposes sanctions and withholding State funds, both of which would jeopardize important State level safety programs in infrastructure maintenance programs already in place.

Let me share a personal experience. Many years ago, back in the middle 1960s, I believe 1967, my first year in the State legislature, my first act in January of 1967, I came to Washington, DC, to testify before the Environment and Public Works Committee chaired at that time by Jennings Randolph of West Virginia. I was impressed with myself coming up to testify before this lofty committee that I now chair.

I was protesting Lady Bird's Highway Beautification Act of 1965. The reason was it was withholding funds, our funds, in order to accomplish a policy which we could agree or disagree on.

I have to admit to the Senator from New Jersey that I come from a little bit of a prejudiced perspective because I would be concerned about mandates for quite some time.

The highway bill is important for addressing real transportation infrastructure needs, but I question it is a place to spend a lot of time for other policies.

I will share with the Senator from New Jersey a study done last year of the California Motorcycle Safety Program, designed by Dr. John Billheimer, completed in 1996, that found that rider training dramatically reduces accidents and thus eliminates injuries and fatalities. Specifically, the study stated:

> An analysis of statewide accident trends shows that total motorcycle accidents have dropped by 67 percent since the introduction of the California Motorcycle Safety Program with a drop of 88 percent among those under 18-year-old drivers.

There is much that can be done to dramatically reduce fatalities. I can recall we were debating a motorcycle helmet law in the State senate many years ago in the 1970s when testimony came forth that a helmet will impair one's vision to some degree, that there are sometimes accidents that have occurred because of the restriction. I know there have probably been studies on that, but it is something to be considered.

I fundamentally oppose this type of approach. I know consistency is not always something we have in this Senate, but it is consistent with my feelings over the last 30 years in addressing this type of situation.

I believe the Senator from New Jersey has every right to get a vote to measure the Senate, so at the appropriate time it would be my intention to table the amendment, call for the yeas and nays, and stack this with perhaps some of the other amendments, maybe the amendment of Senator HARKIN,

who is prepared to offer his amendment now.

Mr. LAUTENBERG. Mr. President, I was heartened at the beginning of the remarks by my colleague from Oklahoma and couldn't wait to hear the rest of it. Then I realized I could have waited.

My colleague is an adventurous fellow who sometimes flies airplanes without fuel. He is quite a daredevil. I support some of the enthusiasm he has for a chance-taking. It is amazing I got as far as I did in life, but here I am with a few broken things here and there.

In all seriousness, there is no transfer of funds; there is no loss of funds. Any money that is not used to promote helmet wearing is used for motorcycle safety within that same State. I was pleased to hear there is a way to protect lives besides using helmets. But when we saw what happened when the helmets came off, they were not blinded by any helmet problems for the most part, they were just killed.

The United States DOT has a helmet design that will not impair vision but will promote safety. That is the critical issue.

I hope between now and the time a vote occurs that the intelligent leader of the committee, who cares about people, will see a difference in view than that which was initially expressed.

I yield the floor.

Mr. INHOFE. Mr. President, again, I am hoping that Senator HARKIN is on his way and is prepared to offer his amendment. I look forward to considering that.

In the meantime, let's keep in mind we now have a limited period of time in which to work. The time is here. We are open for business. We want to have the amendments sent to the Senate. We invite our Members to do so.

In the meantime, I will reconfirm and restate one of the reasons for the urgency of this bill. Not only is this one of the largest bills of the year, it is thought by many to be the most important bill we will consider in that it is a matter of life and death.

We have core safety programs. If we were operating on an extension we do not have in this bill, we will not have the core safety programs and people will die. It is as simple as that, if we do not get this done.

Consequently, it is always worth repeating how important it is to get the bill completed and what would happen if we do not. We are in our sixth extension. This extension expires May 31. On May 31, if we do not have something in place, we have another extension. If we have an extension as opposed to a bill, there is not a chance to improve the donor status. There are many States that are donor States, like my State of Oklahoma. Under this bill as it is now, the minimum donor State of 90.5 percent would be increased to 92 percent, which does not sound like a big increase, and is not as large as I would like, but it means hundreds of thousands of dollars to each State.

Without the bill, we will not have that. We will just have an extension of what we have today at 90.5 percent. We would have no new safety core programs if we are not able to pass this bill.

Again, we have talked about the difficult job in putting together a fair formula. The fair formula is one that no one thinks is fair. Perhaps we have a fair formula as a result of that type of analysis. One of the factors in the 20-some factors of a formula is the fatalities of the States. My State happens to be a high-fatality, per capita State, so there is a consideration in the formula for that. If we do not pass the bill, we will not have any of the safety programs.

Right now, we have some streamlining provisions that took us—and I am sure the distinguished ranking minority member, Senator JEFFORDS, would agree with this—we spent 3 years coming up with what we can do to protect the environment and at the same time streamline the process of building roads so we do not come into delays that are costly delays and use up our mile dollars. We have done that. We have come to a lot of compromises.

It is kind of interesting, I think those of us on the committee, who all supported these streamlining provisions, did not really like the way they turned out. I thought they were not strict enough. Some thought they were too strict. Nonetheless, they are there. But if we do not pass a bill, we do not have them, so they are still going to be stumbling along trying to build roads with all kinds of obstacles out there that are obsolete.

If we do not pass a bill, we will not have the ability to use the innovative financing that is given to the States. This bill, for example, has recognized something that I believe is very important; that is, we should expand the opportunity of the States to have more chances to get involved, more opportunities to use innovative financing methods that may work. My State of Oklahoma is different from the State of Vermont, for example. What works in Vermont may not work in Oklahoma. But we recognize that. This bill will allow the States to be able to start being creative in expanding their ability to pay for more roads in a way that is a custom that would be workable within their States. That is a very important aspect of this legislation.

If we are operating on an extension and do not have a bill, we are not going to have this program called the Safe Routes to School. The Safe Routes to School Program is one that is certainly supported strongly by the Senator from Vermont, as well as many of the Members of the other body. This is something that many people feel very strongly about, that some people think is one of the most important parts of this bill: the Safe Routes to Schools. This will save young lives in America. If we do not pass this bill—and we are not going to pass it if we are working on an extension—young lives could very well be lost.

One of the biggest problems we are having right now—I know my State of Oklahoma is not a lot different from other States—is we are sitting back there with the department of transportation, we are sitting back there with highway contractors who have the labor set up, all ready to go to work, all ready to repair roads, to build roads, to build bridges, and there is no certainty. They do not know for sure we are going to pass a bill. If we do not pass a bill, we may be on a 1-month extension, we may be on a 2-week extension, we may be on a 1-year extension. There is no way we can plan ahead and get the most from our dollars if we do not have a bill. There would be 5 years remaining on this bill for people to be able to plan for the future. So that certainty is very important.

A lot of the States are border States. My State of Oklahoma is not a border State, but a lot of them are. They have to deal with the NAFTA traffic. This bill has a borders program as well as a corridors program built into it to take into consideration some of the unique problems that come with the expanded traffic from trade. If we do not pass a bill, we will not have any help for these people. If we do pass a bill, we have provisions to be helpful to them.

The bill calls for a national commission to explore how to fund transportation in the future. There are some ways, if you look way down the road, maybe 5 years from now or 10 years from now, where maybe—just maybe—we can do something different for a change.

We have said several times here, and others have mentioned it, that this interstate highway program initially came into being many years ago, back in the 1950s, when Dwight Eisenhower was President of the United States. He observed during World War II, when he was General Eisenhower, that he was not able to get the troops and supplies moved around the country, to get them in place, to be shipped over to fight our battles.

When he became President, what is the one thing everybody remembers about Dwight Eisenhower? They remember the roads program, the highway program. It was funded in a way with taxes the same way we are funding it today. So we are talking about a half century, nearly, that we have been funding this program the same way. With this bill, we have established a commission that will look at new ways of partnering, new, creative ways of funding roads.

I can tell you, many people have come to our committee—we have had hearings on this—and they have talked about how much better we can do it if we just have a chance to get away from this mold we have been living in, the methods we are using and have been using for the last half century. If we just operate on an extension, we do not have a chance to do any of that.

This bill is more than just a highway bill. We have talked about bridges and highways a lot. But this is an intermodal transportation bill. A lot of people do not realize it, but my State of Oklahoma is actually a navigable State in terms of barge traffic coming in and out of the State. We have chokepoints with regard to train travel, channel travel, air travel. This bill addresses those chokepoints. At the present time, without this bill, that is not going to happen.

Lastly, and this is probably the most important thing, the bill has firewall protections to make sure people—I have always thought of this as a moral issue. If somebody is driving up to the pump and he or she pays that tax, I never hear anyone complaining about the high taxes on motor fuel because they recognize and believe all that money is going to go to road improvement, to new roads and new bridges. But, in fact, that is not the case because, like any trust fund, the propensity of people in elected positions—whether it is State or Federal—to spend the taxpayers' money is insatiable. They will go and rob these trust funds, whether it is the Social Security trust fund, the highway trust fund, or any of the other trust funds we have, and put it in other programs. It is when nobody is looking. Well, we have firewalls in this bill that would preclude that from happening.

One of the things I liked about the bill we had last year was that we changed all those provisions where they had been using trust fund money to support policies that have nothing to do with transportation. We are, to a great extent, going to be doing that with this bill, too.

So the urgency of passing this bill is upon us. We have to do it this week. It would be Monday at the latest, but this week, I would say, in order to get it to conference, come back from conference, have the conference report adopted in both the House and the Senate, and then signed by the President. We can do that if we move expeditiously now, but if we do not, it is not going to happen. We have a May 31 deadline. What is today? May 11. Today is May 11. So we have 20 more days to get this all the way out of the Senate, into conference—of course, the House has already passed the bill, so they are waiting for us now—have it considered in conference, and then have it sent back here. That is not much time.

Things do not happen very quickly around here. But I know Senator JEFFORDS and I will do everything that is necessary in that conference to make sure we come out with a good bill, get that bill back here, passed the House, passed the Senate, and to the President's desk, to have a highway bill. If we do not do it, none of these 10 things I mentioned are going to happen—none of them.

There may be parts of the bill you don't like. There are parts of the bill I do not like. But I hope people realize that just operating on an extension, after we are on our sixth extension now, is no way to do business. We are here to do a better job for the American people.

Hopefully, some people will be coming down to the Chamber.

I yield the floor to Senator JEFFORDS.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank again Senator INHOFE and Senator BOND for their leadership on this bill. I am glad to be here on the Senate floor continuing to debate this important legislation.

This managers' package we have before us today will increase the funding in our legislation $11.2 billion and ensures that all States will have the resources necessary to improve their highways, roads, and bridges.

This package will be the catalyst that helps get this bill completed the way it I should be—fully funded. I sincerely thank Senators GRASSLEY and BAUCUS for their tremendous efforts in crafting the finance title of this proposal.

This package will create jobs. It will save lives. It will reduce travel time. And it will improve the quality and structure of our Nation's surface transportation system.

Just this week, the Texas Transportation Institute at Texas A&M University released its annual Urban Mobility Report. This highly respected report once again tells us we need to do better when it comes to transportation in this country. The report tells us that traffic congestion delayed travelers 79 million more hours—79 million more hours—and wasted 69 million more gallons of fuel in 2003 than in 2002.

The report tells us that overall in 2003, there were 3.7 billion hours of travel delay and 2.3 billion gallons of wasted fuel, for a total cost of more than $63 billion. But this bill is about more than reducing traffic congestion. The U.S. Bureau of Transportation Statistics says there are approximately 45,500 transportation-related fatalities per year, 94 percent of which occur on highways. That is because over a quarter of our interstates remain in poor or mediocre condition. Fourteen percent of our bridges are structurally obsolete. This is unacceptable. Something must be done.

That is what we are trying to do here today. We have worked very diligently to reach a compromise that will move us forward in safety, commerce, environmental protection, and congestion reduction.

I encourage all Senators to come to the floor and offer their amendments sooner rather than later. Let's get this bill done so our States can get started with their critical work. Let's get this bill done this week so we can move it to conference with the House as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for his excellent statement. I agree with all of it.

I see the Senator from New Jersey is not in the Chamber, but let me make one comment. When I was talking about the withholding of funds and the Federal mandates, he is accurate in the fact that funds would not be withheld. It would mandate that 3 percent of the money of the portion of funds that would go to his State would be taken from the surface transportation program, the National Highway System, and the interstate maintenance programs. That is the problem I have. In a way that is withholding money. That is a mandate that is backed up by withholding funds.

It is my understanding we have two Members who are due to bring their amendments. We encourage them to come.

I yield the floor and 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 652 TO AMENDMENT NO. 605

Mr. DORGAN. Mr. President, I have an amendment I would like to have considered. My amendment is No. 652, which I have filed and is at the desk.

The PRESIDING OFFICER. The pending amendment is temporarily laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 652.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices)

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. 15___. INVESTIGATION OF GASOLINE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation.

(b) REPORT.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(1) the results of the investigation; and

(2) any recommendations of the Federal Trade Commission.

Mr. DORGAN. Mr. President, first, we are deliberating in the Senate about

a highway bill. I appreciate the work the chairman of the committee and ranking member have done on this piece of legislation. It has been a long and tortured process to get this piece of legislation to the floor of the Senate. While I may not agree with every single line in the bill, I admire their work. I think their work is commendable, and it will advance this country's interests. For that reason, I intend to support the legislation.

I think with respect to this country's future, its economy, future opportunities in expanding our economy, there is nothing that more quickly expands the country's economy or more quickly provides opportunity all across this country than the investment Congress makes in a program that provides for highway and bridge construction and road maintenance and repair. It is a sure way to put people to work immediately all across this country.

This highway bill has been long delayed, but now while it is on the floor, I also want to not only commend the committee for its work, I want to offer an amendment that deals with something that relates to it.

Let me discuss briefly the amendment and then describe why I want this amendment considered on this bill. My amendment simply deals with the price of gasoline and asks the FTC to, within 90 days of the legislation being enacted, conduct an investigation of gasoline prices in this country. Let me describe a bit of the background for this. I don't allege there is corruption, price fixing, or collusion. What I do know is this: When big companies get bigger and more companies become fewer companies, there is a capability to influence the marketplace in a significant way. I chaired the hearings in the Senate that investigated the Enron situation. Now, having sat in the chair investigating what Enron did with respect, not to gasoline, but with respect to electricity sales on the west coast, the creation of strategies called Death Star, Fat Boy, Get Shorty—all of which were strategies to literally steal from the pockets of people living on the west coast. They bilked people out of billions of dollars by manipulating and overpricing with respect to the electricity market. We know that now and we also know that some executives from that company are on trial, about to go on trial, or have finished their trials, and some have been sentenced to 10 years of hard tennis at a minimum security prison. Others will get a stiffer penalty. It was wholesale stealing from the American people. Why? One, because they could; and, two, because there are people who are corrupt in their hearts engaging in these practices.

I don't allege the same exists with oil. I don't have any idea with respect to oil and the price of gasoline. I understand that the circumstances with oil are complicated. Sixty percent of the oil we use in this country—incidentally, the increased usage substantially is for transportation—comes from off our shore. The pricing for oil coming from the spot market relates to supply and demand, I am sure, but the supply largely comes from Saudi Arabia, Iraq, Kuwait, Venezuela, and others. Now, we are really fooling ourselves if we think it is not holding America hostage and our economic future hostage with 60 percent of our oil coming from off our shores and most of it coming from troubled parts of the world.

If, God forbid, terrorists should interrupt the flow of oil into this country tomorrow night, our economy would be belly up very quickly. So that calls for and begs for a new energy policy, instead of simply saying that our exclusive energy policy is digging and drilling, which we must do; but if that is our exclusive policy, that is a ''yesterday forever'' policy. We need a new energy policy on the floor of the Senate.

I also think even as all of these events are occurring—the price of oil increasing, the spot market showing the price of oil is $50 or $52 or $55 a barrel, and the price of gasoline is increasing at the pumps, and you drive up to a gas pump someplace and somebody is driving a 6,500- or 7,000-pound car, perhaps a humvee, and you wonder a little bit about how all this works. When I drive up next to a humvee and everybody has a right to drive a humvee I think of the Latin term, ''totus porcus.'' I am not sure why I think of that. When somebody sits there with a 7,000-pound vehicle, with one person in the vehicle going to work, you wonder about that. The marketplace probably takes care of some of that, although somebody who is going to buy a humvee probably doesn't care much about the price of gasoline.

The price of gasoline is an interesting phenomenon in our country. As the price of oil goes up, and we hear about it on the news, all of a sudden, that day or the next day the price of gasoline goes up with a blink of an eye, following the price of oil. Then the price of oil comes down a bit, and the price of gasoline doesn't move down with quite the same rapidity. Something interesting is going on. I would like to discuss a bit of it.

Since 1990, the number of major oil and gas companies has gone from 34 to 13. The number of refining companies has gone from 13 to 7. The other day, I noticed that while we have very high prices for oil and gasoline, Exxon Oil had the highest profit ever for a corporation—record profits. So I am asking myself the question: Why should an oil company have record profits just because the price of oil is high and the price of gasoline is higher? Has the margin between those two prices changed with respect to those that are delivering it? The answer comes in the evaluation of what has happened to total revenues and to net income for the major oil companies. As we have gone from more to fewer oil companies, what we see is now, with the price of oil and gasoline in many cases at near record levels, so, too, are the profits of the oil companies. There have been profit increases year to year of 108 percent, 79 percent, 101 percent, 152 percent, 1,000 percent, 400 percent—these are the major oil companies and the increase in their profits from 2003 to 2004.

Question: Given what we know about what has happened in some areas and in some industries with respect to manipulation of supply and demand and manipulation of prices, should we not have aggressive oversight and investigation to make sure the consumer is protected? I don't have the information to come to the floor to say there is something fundamentally wrong in the pricing strategy, but there are some indications, it seems to me, that some enterprises that have now merged successfully and become larger and stronger and have better capability to be involved in affecting the market in a more deliberate way are increasing their profits because they can, not because there is aggressive and robust competition, but because they have the economic clout to do it.

I am wondering if on behalf of the American consumers we ought not have aggressive oversight and aggressive investigation.

Now, we have seen activities from very large oil companies in the Congress. The House of Representatives, by the way, just passed an energy bill saying we need more incentives for these energy companies to be exploring for more oil and natural gas, at a time when the oil prices are at a record high. Even the President says that doesn't make any sense at all. It is interesting while they are wanting more tax incentives to explore for more oil, they are busy buying up stock with extra profits. That is what they are doing: they are not putting those profits in the ground. I find that interesting as well.

I think the FTC is the appropriate agency to investigate gas prices. I think, on behalf of American consumers, we ought to take a hard look at it, and the FTC is the place to do it. I pulled up at a four-way stop sign near Mohall, ND, one day, and there was an old car in front of me, and it was well used and well worn, with the back bumper kind of askew and not much of a paint job left. It had four or five people in it, and it was belching smoke out of the back end. They had a plain, simple little bumper sticker. The bumper sticker from this old wreck of a car that is now stopped at a four-way stop said: We fought the gas war and gas won.

Well, the message from that old car, ''gas won,'' is a message I think everybody understands. We are talking about a big industry that has consolidated and merged so that there are far fewer companies, with much greater market clout, and I think we need substantial oversight. The basic consumer protection statute enforced by the Federal Trade Commission is in section 5(a) of the Federal Trade Commission

Act. It provides that unfair or deceptive acts or practices in or affecting commerce are declared unlawful. Unfair practices are defined to mean those that:

cause or are likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

In the State of North Dakota, a State I represent in the Senate, we actually drive a lot because we are a State that is 10 times the size of the State of Massachusetts. We have 642,000 citizens and we drive a lot. In fact, it is interesting; we drive almost twice as much per person as they do in New York. The average North Dakotan drives twice as much per person per year as a New Yorker, which means of course the burden of the gas tax itself is twice as high, but that is all right. We understand that. We like where we live. North Dakota is a wonderful State. But because gasoline is a significant issue for us and the price of gasoline is important for people who drive as much as we do, it is very important to us that we see that these prices are fair.

It is hard for me to understand how at a time when the oil prices have spiked and gasoline prices have risen substantially, how the profit margin has increased so dramatically for the oil companies themselves if in fact this is a competitive market. If it is not a competitive market, then I think there needs to be substantial investigation to see whether the consumers are being gouged.

Let me say again when I chaired the hearings about the manipulation of the market and the grand theft that occurred with the Enron Corporation bilking billions of dollars from consumers on the west coast, California, Oregon, Washington, and so on, it was unbelievable to see what those companies did because they could. They had larceny in their heart and they decided to profit to the tune of billions of dollars by literally stealing from consumers. As I have said before, I am not alleging that is happening here. I do not have the foggiest idea what the mechanics are for the pricing strategies or what has led to record profits for the oil companies.

All I know is the oil companies are bigger. They have more muscle. They have more capability to affect the marketplace, and I believe when there are fewer competitors and less competition, there is a responsibility on behalf of consumers to ask for a referee to look over their shoulder and see that everything is all right.

I only wish we had done that earlier in the Congress when it was quite clear that the wholesale prices for electricity charged by Enron and others in the west coast marketplace—I only wish we had been more aggressive and we had demanded the Federal Energy Regulatory Commission and others to be in there up to their neck in investigating what was going on, but the Congress was late. The Federal Energy Regulatory Commission was asleep from the neck up. As a result, there was grand theft on the west coast from those markets, particularly by the Enron Corporation. Let us not let that happen with other industries.

Again, I do not allege that is the case here. I do not have the foggiest idea what the ingredients are of these pricing strategies, but I would like the Federal Trade Commission, on behalf of the American people, to take a good hard look. So my amendment would provide that be the case 90 days following the enactment of this legislation, and we would then have the benefit of a formal Federal Trade Commission study of gasoline pricing.

I think on behalf of the American people, given this time, given these circumstances, we ought to expect that and demand that and that is what I do in this amendment.

I yield the floor, and 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. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. We are encouraging Members to come to the floor. The Senator from Iowa is prepared to offer an amendment, and another behind him. I am hoping we will be able to get these amendments so we can perhaps have some stacked votes tonight—maybe 6 o'clock or so—whenever the leadership on both sides agrees that is the appropriate time.

I will state again how significant it is we pass this bill. It will be very costly in terms of dollars if we do not get it completed. There are a lot of programs incorporated in this lengthy bill that I do not agree with and we debated them for 3 years. I had to lose some and I won some.

This is one I don't think there is one member of the committee I chair of 10 Republicans and 8 Democrats who will say they got everything they wanted. Maybe that is a sign that we did a pretty fair job. We need to have the bill passed.

We need to do what we can to avoid another extension. An extension causes all of the 10 problems I outlined a few minutes ago. There is a clear right and wrong in this case. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, we do have at least one amendment, the Lautenberg amendment, that is ready for a vote. It might be that the Harkin amendment will be ready for a vote also, if the Senator can get ready in the next 30 minutes. I announce it is our intention to have a vote at 5:30, and there will be either one or two or even three votes, depending on what comes down between now and 5:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 618 TO AMENDMENT NO. 605

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 618 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER, proposes an amendment numbered 618.

Mr. HARKIN. 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 improve the safety of nonmotorized transportation, including bicycle and pedestrian safety)

At the end of subtitle D of title I, add the following:

SEC. ___. NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking ''The Federal'' and inserting the following:

''(1) IN GENERAL.—The Federal''; and

(2) by adding at the end the following:

''(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

''(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

''(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

''(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

''(3) NONMOTORIZED TRANSPORTATION GOAL.—

''(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

''(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

''(4) RESEARCH FOR NONMOTORIZED USERS.—

''(A) FINDINGS.—Congress finds that—

''(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

''(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

''(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

''(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

''(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

''(I) by the Department of Transportation; and

''(II) by State transportation departments.

''(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

''(iii) DEPARTMENT OF TRANSPORTATION ALLOCATION.—Effective beginning with the third full fiscal year that begins after the date of enactment of this paragraph, the Secretary shall allocate at least 10 percent of the research funds that are allocated by the Department of Transportation for each fiscal year to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

''(5) METROPOLITAN PLANNING ORGANIZATIONS.—

''(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

''(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

''(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

''(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

''(C) LONG-RANGE TRANSPORTATION PLANS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

''(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

''(II) includes an improved target level for bicycle and pedestrian trips; and

''(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

''(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

''(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.''.

Mr. HARKIN. Mr. President, the amendment I am offering, on behalf of Senators KENNEDY, OBAMA, CARPER, and myself, calls for several simple adjustments to current practices at the Federal, State, and local level. The costs are minor, but the impact on safety for those who walk and ride bikes would be large. With the safety improvements that could result from this amendment, I believe we could increase pedestrian and bike traffic, and we could increase exercise to the benefit of American's health. We can reduce traffic congestion, and we can provide for safer travel for those who want to walk or ride a bike.

At the outset, I want to acknowledge that there are funds in the bill for increased bike paths and trails. We have kept the enhancement money. That is all well and good. I don't know the exact amount of money, but there is a quite a bit involved. The problem is there is nothing in current practice that requires State departments of transportation or metropolitan planning organizations to integrate in their planning upfront for bike paths and sidewalks when they are planning highways. Again, I think a lot of the good money for bike paths and trails will be used to redo and retrofit what they should have done in the first place. That is what we always seem to be doing—we'll fix it up and add something later on. That always costs more money.

What this amendment does is it says: Let's have them at the initial planning stage integrate into their planning sidewalks and bike paths.

The fact is, our current transportation system has been engineered in a way that is, in many cases, unfriendly and often very dangerous to nonmotorized travel. Again, my amendment promotes Federal, State, and local actions to make walking and biking safer and to increase the total number of walking and bicycling trips.

Specifically, the amendment requires each State to adopt a ''complete streets'' policy to accommodate bicyclists and pedestrians by ensuring that all users are considered when communities are built or modernized. While studies show that Americans would like to bike and walk more, many roads do not have sidewalks or bike paths, making them dangerous for pedestrians and bike riders. In many cases, traffic lights do not allow enough time for the elderly or people with disabilities or children to safely cross busy intersections. Meanwhile, we are constructing new housing developments without sidewalks. Go out and take a look at some of the new housing developments being added in any State. A lot of times there is not even a sidewalk. How can you ask kids to walk to school if they don't have a sidewalk?

My wife and I get up every morning. We have a mile route that we walk. We have sidewalks for part of the way, and there aren't any sidewalks for the rest of the way. Again, it is about getting this integrated in the initial planning.

While studies show that Americans would like to bike and walk more, many roads don't have sidewalks or bike paths. It is dangerous for pedestrians. We are building roads without bike lanes. Quite frankly, we are heading in the wrong direction. Quite frankly, to promote more healthy living, we must promote people walking or biking more. I will have more to say about that in a minute.

Experts I talk to tell me that even a modest increase in pedestrian and bike traffic will get some cars off the road. That can have a significant positive impact on traffic congestion and gridlock. Research shows that often a surprisingly small increase in the number of cars can make the difference between a smooth flow of vehicles and a time-wasting traffic jam.

According to the U.S. Department of Transportation, the number of trips that are taken that are 1 mile or less is about one out of four. In other words, about 25 percent of all trips taken are 1 mile or less. Nearly half of all the trips taken in this country are under 5 miles. So it wouldn't take a huge shift to have an effect on traffic congestion. The path to safer travel on foot or by bike is also the path to a smarter, healthier, more efficient vehicle transportation system.

Each of the provisions in my amendment is intended to help us move forward toward safer travel for people in vehicles, pedestrians, for people who use bikes or people who use wheelchairs, or for people simply trying to cross a road safely in a neighborhood.

When we debate the highway bill, we typically talk about the Nation's infrastructure deficit, about jobs and economic competitiveness, the movement of goods, and other broader transportation goals. But we neglect other matters that are of real concern to people all across America in terms of transportation. For example, what are we doing to improve the safety of pedestrians and bicyclists?

In the Washington, DC, area we have recently experienced a rash of pedestrian fatalities. All across the country

bicyclists put their lives at risk on roads that make no accommodation for nonmotorized traffic. No one denies that over the years we have built a transportation system that neglects and endangers nonmotorized travel. Again, this costs us dearly in terms of needless loss of life or permanent disabilities caused by accidents.

It also has other consequences. When we give people no alternative to using their cars, they use their cars. So we add more and more vehicles to our roads and highways, 25 percent of which are used for trips of less than a mile. This translates into traffic delays, congestion, often gridlock. We simply must give more attention to the safety of pedestrians and those who use bicycles or who walk or who use wheelchairs.

It is pretty shocking when we look at the statistics. Our Federal system for tracking fatalities, known as FARS, tells us that during the decade from 1994 to 2003, nearly 52,000 pedestrians were killed in traffic accidents in the United States. During the same 10-year period, more than 7,400 bicyclists were killed. Though the data is less reliable with regard to injuries, we know the number of nonfatal injuries ran into the hundreds of thousands during that same 10-year period.

In 2003, the most recent year for which we have data, nearly 5,000 pedestrians and more than 600 bicyclists were killed in the U.S., again, with many more thousands injured. Fully 13 percent of all transportation fatalities are pedestrians and bicyclists—13 percent. That is a rate far in excess of the share of trips taken by pedestrians and bicyclists. The bottom line is it is disproportionately dangerous to be a pedestrian or bicyclist in the U.S. This is one big reason why people are opting not to walk or ride a bicycle. Instead, they are getting in their cars and they are contributing to traffic jams. Again, about 25 percent are going less than a mile, and over half of the time they are going less than 5 miles.

The journey to work data in the 2000 census tells a dismal story. Compared to 1990, despite a big increase in population, the number of people who walked to work fell by almost three-quarters of a million—727,000, to be exact. In 1990, 3.9 percent of Americans walked to work. Ten years later, in 2000, that had fallen to 2.9 percent—a 25-percent decline in the number of Americans who walk to work, in a 10-year period of time.

These various statistics tell us that many fatalities and injuries to pedestrians and bicyclists are preventable if we make the safety of nonmotorized travel a higher priority, and that is exactly what my amendment is intended to do, to put it into the planning stage and make it a higher priority. This amendment, I guess you could say, is also designed to significantly reduce the number of car trips taken.

As I said, consider that trips of a mile or less represent the highest share of all car trips we make every day—a quarter of all of those trips. This means there is a huge, untapped potential to shift a significant portion of these short-distance trips to foot or bicycle, if we make some modest adjustments and if we step up our focus on safety.

A 2003 transportation research board study showed that residents of neighborhoods with sidewalks were 65 percent more likely to walk than residents of neighborhoods without sidewalks. That kind of makes sense. As I said, my wife and I take a mile walk in the morning, and we have sidewalks part of the way, and part of the way we are out in the street. Fortunately, there is not a lot of traffic at that time. More than once, we have been walking down the street where there are no sidewalks and you don't hear a car coming and they slip by you. I have often thought what if I happen to step one way or the other while walking and do not hear that car coming. That is why people don't walk more.

A study in Toronto documented a 23-percent increase in bicycle traffic after the installation of a bicycle lane. Think about that. They put in a bicycle lane and there was a 23-percent increase in bicycle traffic because people are more safe. They can travel on a bicycle and know they are not going to get hit. As a Senator who is a chief sponsor of the Americans with Disabilities Act, which we passed 15 years ago, I can testify that stepped-up attention to pedestrian improvement and access will be enormously beneficial to people with disabilities and also to our growing population of seniors.

Right now, about 85 percent of bus and rail users get to the bus stops and subway stations on foot. Many are people with disabilities. And seniors have no choice but to rely on costly paratransit services; they cost a lot of money. A lot of times we pay for it out of taxpayer dollars. We can reduce those costs by building new walkways and improving the existing walkways.

I have something here that was put out by the National Association of County and City Health Officials called Public Health and Land Use Planning and Community Design.

It says here that a Texas study—that is the State I referred to earlier—found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. I will repeat that. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop.

One of the reasons we passed the Americans with Disabilities Act was so more people with disabilities would get into the workforce. More often than not, they rely on a bus to get there. How are they going to get to the bus stop if they don't have a sidewalk on which to even get to the bus stop?

Over 55 percent of all pedestrian deaths occur in neighborhoods that are often designed with no sidewalks or otherwise inadequate pedestrian accommodations. So, again, in terms of helping people with disabilities make sure they can get to a job, or get to shopping, or whatever they need to do, they rely upon transit services, buses. But if they cannot even get to the bus stop, what good is it?

Over the last two generations, we have seen dramatic changes in how children go to school. As recently as 30 years ago, up to 70 percent of children were walking or riding bikes to school. Outside of every school you would see bicycle racks loaded with dozens of bikes. Not anymore. Today, nearly 90 percent of our kids are traveling to school in vehicles, mostly buses. But if you checked the high school parking lots, you know it is cars, too. In addition, a growing number of parents are driving their kids to school, putting further stress on the roadways during the morning rush hour. Again, the logical alternative is to provide safe, convenient options to encourage children to walk or bike to school.

I was saying earlier to Senators on the floor, I remember my own two daughters, when they went to public school out in Virginia. We live about a mile from school. Well, there was a sidewalk about a third of the way, and about two-thirds of the way there was no sidewalk. It was a busy thoroughfare. How are you going to let them bike? You are not going to let them walk. So they got a car to drive a mile. I would not let our kids walk on that street and neither would our neighbors. Again, they will come along later and retrofit a sidewalk and that will cost more money, or they will put in a bike path later. Why don't we do it up front, get the planning done up front?

That is what this amendment is all about. Our focus in a transportation bill, I believe, should not strictly be on moving vehicles. We should be more broadly focused on moving people and making it possible for more people to move themselves by foot or by bicycle. For every American who opts to get to work, school, or the grocery store by foot or bicycle, that is less costs for road building and maintenance, zero contribution to traffic congestion, zero costs in terms of pollution and environmental degradation. Every walking and bicycle trip that substitutes for a car trip, especially during rush hour, makes a big difference.

In local situations, where we can encourage hundreds or thousands of people to shift to walking and bicycling, this can have a dramatically positive impact on the transportation system.

So improving and expanding sidewalks and bike paths is not only about safety, it is about maximizing the performance of our transportation systems. Again, the good news is, to make a positive difference, large numbers of vehicles do not need to be moved off a congested roadway. Just some of them need to be moved. It is the incremental user that spells the difference between

free-flowing traffic and time-wasting congestion, and that is why any thoughtful, effective transportation policy for this Nation must aim for at least modest gains in walking and bicycling.

So again I have talked about how, by investing in sidewalks and bike paths, we can reduce the stresses on our transportation system. I have also talked about how this can improve safety for pedestrians and bikers. There is one other huge benefit that, by itself, would justify passing this amendment. Simply put, by encouraging more Americans to spend more time walking and biking, we can have a major positive impact on their health and their wellness. We can reduce the incidence of obesity and chronic diseases. This, in turn, will lead to savings in health care costs, including Medicare and Medicaid.

Ninety million people in the United States are living with chronic diseases, and many of these can be prevented through changes in lifestyle—for example, by eating nutritious foods and getting plenty of physical exercise. I wish to stress, physical exercise. When all is said and done, aside from tobacco use and genetic predisposition, there are essentially two things that lead to chronic disease: Poor nutrition and lack of physical activity. They also contribute to being overweight and obese.

So we need to be doing everything possible to encourage Americans to engage in more walking and bicycling. We can begin by making it possible for more young people to walk or to bike to school.

Currently, only 8 percent of elementary schools and 6 percent of high schools provide daily physical education year round for all students. More than one-third of youngsters in grades 9 to 12 do not engage regularly in vigorous physical activity. No wonder we have an epidemic of childhood obesity. No wonder that American adolescents rank as the most overweight in the industrialized world.

And the picture is just as bleak for adults. Almost 40 percent of American adults are sedentary. In the United States, only six percent of trips are by walking or biking, compared to 49 percent of trips in Sweden and 54 percent of trips in Italy.

Research shows that the amount of time people spend in their cars correlates more strongly with overweight and obesity than income, education, gender, or ethnicity.

One remarkable study compared the health of people living in walking-and-biking-friendly cities with the health of people living in sprawling, car-dependent suburbs. The study, published in 2003 in the American Journal of Health Promotion, found that people living in counties marked by sprawling development are likely to walk less and weigh more than people who live in less sprawling counties. In addition, people living in more sprawling counties are more likely to suffer from high blood pressure. These results hold true after controlling for factors such as age, education, gender, and race and ethnicity.

One does not need a Harvard study to establish another correlation: The correlation between the decline in physical activity and skyrocketing healthcare, Medicaid, and Medicare costs. We build subdivisions without sidewalks, schools without playgrounds, and cities without bike lanes, and then we wring our hands about rising rates of overweight, obesity, and chronic disease. We systematically neglect wellness, fitness, and common-sense disease prevention and we are shocked, shocked that health care costs are ravaging Federal, State, and corporate budgets.

Someone once defined insanity as doing the same old thing over and over again and expecting a different result. Well, our current health care approach is, by definition, insane. In fact, in America, today, we don't have a true health care system, we have a sick care system. If you are sick, you get care. We continue to spend hundreds of billions on pills, surgery, treatments, and disability. But we are under-funding, cutting or eliminating programs designed to keep people fit and well and out of the hospital.

We cannot go on like this. We are choking our economy. We are exploding the Federal budget. And we are, literally, killing ourselves.

Consider the obesity epidemic. Some 65 percent of our population is now overweight or obese. The incidence of childhood obesity is now at epidemic levels. Alarm bells are going off all over the place. But our Government has done virtually nothing.

And the Federal budget is being eaten alive by health care costs. It is also State budgets. It is family budgets. And it is corporate budgets.

Look at the numbers. Last year, nationally, we spent more than $100 billion on obesity alone. Medicare and Medicaid picked up almost half of that tab.

This is unwise. It is uneconomic. And, as we now know, it is totally unsustainable. If we are going to control Medicare and Medicaid costs, and private-sector health care costs, as well, we need a radical change of course. We need a fundamental paradigm shift toward preventing disease, promoting good nutrition, and encouraging fitness and wellness. This will be good for the physical health of the American people. And it will be good for the fiscal health of Government, corporate, and family budgets.

That is exactly what this amendment is about. Yes, this amendment is a step towards reducing the burdens and stresses on our transportation system. It will improve safety for pedestrians and bikers. By encouraging walking and bicycling, it will also have significant health benefits. And, as a consequence, it will help to hold down health care costs and reduce the burden on Medicare and Medicaid.

Now let me explain the specific ways that my amendment will help us to capitalize on these opportunities.

My amendment asks the Secretary of Transportation to report to Congress each year as to how the Federal research dollars provided in this legislation are advancing progress on safety and other issues related to walking and bicycling.

It also asks the Secretary to establish goals for increasing walking and bicycling, and to set milestones toward achieving these goals.

Looking into the future, it asks each State department of transportation to have a policy statement on ''complete streets,'' so that when they undertake projects funded under this highway bill, some consideration must be given to the needs of non-motorized users.

Larger metropolitan planning organizations—that is, regional transportation agencies serving 200,000 or more people—can choose to adopt a ''complete streets'' policy or satisfy certain criteria in their planning process. And these agencies must show how their long-range plans and transportation improvement programs will increase walking and bicycling. It does not require that sidewalks or bikeways be built along side rural roads or intercity roads.

Finally, under my amendment, these large metropolitan planning organizations, or MPOs, are encouraged to work with their local governments on improvements designed to increase biking and walking. In addition, the MPOs would be directed to designate a bicycle and pedestrian coordinator, a move that would be in line with a requirement placed on state transportation departments dating back to the 1991 ISTEA law.

Each of these provisions is designed to better align our current law practices with key features of the bill before us.

In the SAFETEA bill, the committee has provided for important financial commitments to bikes and trails. But we need to fully integrate the needs of pedestrians and bicyclists into the complete transportation process.

There are also provisions in my amendment regarding how we conduct Federal research activities. This is designed to expand our knowledge of effective pedestrian and bicycle safety practices, and to help our State and local partners understand the best methods and practices for addressing these safety needs.

Provisions in this ''Complete Streets'' amendment will help us to ensure that we are designing transportation projects, up front, with pedestrian and bicycle safety in mind, so we don't have to keep going back and retrofitting. So many of the programs in the SAFETEA bill involve re-doing and retrofitting what we didn't do right in the first place. In the future, as each State adopts a ''Complete Streets'' policy, this can be avoided.

Finally, this amendment attempts to set modest goals for increasing the

number of walking and bicycling trips, while reducing pedestrian and bicycle fatalities.

I believe that this modest package of policy improvements can and will make a significant difference. I am very pleased by the broad range of organizations that enthusiastically endorse this amendment.

Mr. INHOFE. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. INHOFE. We are trying to lock in votes for tonight, and I was preparing for a unanimous consent request, but to do that we would have to give—I think the Senator needs to give the other side at least a couple of minutes to respond. The request would be to have two votes take place beginning at 5:30 on the Lautenberg amendment and the Harkin amendment. Could I interrupt the Senator to make that unanimous consent request?

Mr. HARKIN. Absolutely.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent that—

Mr. HARKIN. Wait just a second, Mr. President. The Senator said he wants to do what at 5:30?

Mr. INHOFE. We want to ask unanimous consent to proceed to a vote on the two amendments beginning at 5:30.

Mr. HARKIN. Well, I had a request from Senator CARPER who wanted to speak. I assume Senator BOND may want to speak. I do not know. That is only 7 more minutes.

Mr. INHOFE. I have been informed, if we are not able to get it at this time, we will not be able to have the votes tonight. I would rather have them tonight.

I ask unanimous consent that at 5:30 today, the Senate proceed to a vote in relation to the Lautenberg amendment No. 625 to be followed by a vote in relation to the Harkin amendment No. 618, with no second degrees in order to the amendments prior to the votes and with the time until then equally divided; provided further that there be 2 minutes equally divided for debate between the votes.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa is recognized.

AMENDMENT NO. 618, AS MODIFIED

Mr. HARKIN. Mr. President, reserving the right to object, I wonder if the Chairman would permit me to modify my amendment by striking lines 6 through line 16 on page 5 dealing with research.

Mr. INHOFE. Yes. There is no objection to that. That will be included by UC.

Mr. HARKIN. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 618), as modified, is as follows:

At the end of subtitle D of title I, add the following:

SEC. ___. NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking ''The Federal'' and inserting the following:

''(1) IN GENERAL.—The Federal''; and

(2) by adding at the end the following:

''(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

''(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

''(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

''(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

''(3) NONMOTORIZED TRANSPORTATION GOAL.—

''(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

''(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

''(4) RESEARCH FOR NONMOTORIZED USERS.—

''(A) FINDINGS.—Congress finds that—

''(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

''(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

''(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

''(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

''(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

''(I) by the Department of Transportation; and

''(II) by State transportation departments.

''(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

''(5) METROPOLITAN PLANNING ORGANIZATIONS.—

''(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

''(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

''(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

''(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

''(C) LONG-RANGE TRANSPORTATION PLANS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

''(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

''(II) includes an improved target level for bicycle and pedestrian trips; and

''(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

''(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

''(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.''.

The PRESIDING OFFICER. Is there objection to the request from the Senator from Oklahoma?

Without objection, it is so ordered.

There will be 2½ minutes per side remaining on this amendment.

Mr. HARKIN. Mr. President, I wanted to make sure the Senator from Missouri had adequate time to speak. I think I have made my case. I wanted to point out who is in support of this amendment. I have a nice chart that says it all. The American Association of Retired People, the Association of Metropolitan Planning Organizations, the MPOs, are in favor of this, as well as America Bikes, Natural Resources Defense Council; Paralyzed Veterans of America, again, because of the disability issue; America Walks; the American Heart Association strongly supports this; the American Public Health Association; the American Society of Landscape Architects; the American Planning Association, among a lot of others, are in favor of this amendment.

I hope we can adopt this amendment for a number of reasons, not the least of which is for the health and welfare of the American people and to get more people walking and biking but to get it done upfront, so when they are planning, it is integrated upfront, and that

is really what this amendment does, in essence.

This amendment asks for upfront planning, that they have a policy statement, that metropolitan planning organizations have a complete streets policy, that all of this is done upfront. Let us quit coming in and backfilling and putting in bike paths and sidewalks after the fact. Let us get it done upfront. That is really what this is all about.

I ask unanimous consent that letters from the following national organizations be printed in the RECORD: the Surface Transportation Policy Project, AARP, America Walks, the National Center for Bicycling and Walking, the Metropolitan Planning Organizations, the League of American Bicyclists, The American Society of Landscape Architects and the National Resources Defense Council, and a fact sheet from the National Association of County & City Health Officials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SURFACE TRANSPORTATION POLICY PROJECT,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Surface Transportation Policy Project, I am writing to indicate our strong support for the ''Complete Streets Amendment'' you will offer during Senate debate on the SAFETEA legislation.

Your amendment proposes important, albeit modest, improvements to prompt the federal, state, regional and local partnership to embrace policy actions that will help expand travel options in the U.S., focusing specifically on improving safety for pedestrians and bicyclists.

The simple policy adjustments you are proposing are complementary to the other important provisions in the bill, notably the renewal of the Surface Transportation Program and its Transportation Enhancements Program as well as the inclusion of new initiatives to promote ''fair share'' expenditures under the Safety program and the Safe Routes to School program. These programs bolster state and local efforts to retrofit transportation facilities now in place and help ''complete our streets'' in communities throughout the nation.

Importantly, your amendment, with its emphasis on the adoption of ''Complete Streets'' policies by state transportation departments and the largest metropolitan planning organizations, will help ensure that, going forward, all users—transit users and other pedestrians of all ages, including those with disabilities, as well as bicyclists—are given full consideration in how we design new and modernize existing facilities with the federal dollars SAFETEA makes available. It also calls upon the U.S. Transportation Department to report on how research funds are deployed to facilitate walking and bicycling and prompts the Secretary to exert more leadership to make these trips safer and more frequent. Finally, it rightly focuses on the planning process in our largest metropolitan areas where a substantial majority of Americans live and work, insisting that more attention be given to plans and investments that promote broader travel options in these areas.

We strongly support this amendment and urge your colleagues to incorporate these provisions during full Senate action on SAFETEA.

Sincerely,

ANNE P. CANBY,
President.

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC. May 11, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: AARP commends you for your leadership in offering the ''Complete Streets Amendment'' during Senate debate on the SAFETEA legislation. Safe mobility options are essential to the independence and well-being of older Americans.

Over one-fifth of persons age 65 and over do not drive. A growing number of older Americans are looking for other mobility choices, either because they have stopped driving, want to reduce their driving, or because they want to be more physically active. Walking is an important travel option for older persons and, under the proper conditions, can provide a safe, healthy transportation alternative for carrying out daily activities. In fact, walking is the most common mode of travel for older persons after the private vehicle

A recent AARP survey, however, found that one-fifth of persons age 75 and above perceived poor sidewalks, dangerous intersections, and lack of places to rest as barriers to walking. Older persons also have the highest rate of pedestrian fatalities of any age group. We believe it is important that communities provide infrastructure that allows people of all ages to have safe mobility choices, including walking and bicycling.

The Safe and Complete Streets Act of 2005 would help accomplish this goal by:

Requiring that state transportation departments adopt ''Complete Streets'' policies when constructing new transportation facilities with federal funds, using the Federal Highway Administration's policy statement on accommodating pedestrians and bicyclists as its basis;

Directing the U.S. Secretary of Transportation to promote a goal of increasing the number of pedestrian and bicycle trips, while seeking to reduce accidents involving pedestrians and bicyclists;

Focusing research on the safety of nonmotorized travel; and

Requiring metropolitan planning organizations serving a population of 200,000 or more to designate bicycle/pedestrian coordinators and include the safety needs of pedestrians and bicyclists in their long-range transportation plans.

AARP appreciates your commitment and dedication to providing mobility options for all Americans and we look forward to working with you towards accomplishment of this important goal. If you have any further questions, please feel free to contact me, or have your staff contact Debra Alvarez in Federal Affairs Department at (202) 434–3814.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

AMERICA WALKS,
Boston, MA, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: I'm writing on behalf of America Walks, a national coalition of more than 60 pedestrian advocacy organizations located throughout the nation, to express our support for your Complete Streets amendment to the federal transportation bill.

Andy Hamilton, President of America Walks, is out of town and asked me to let you know of our organization's support for your efforts.

Communities with sidewalks will encourage people to walk more, which will improve public health while at the same time reducing traffic congestion, particularly around schools.

Complete streets will improve safety. For decades, our roads have been designed with a single-minded focus on moving as many cars as possible as fast as possible. Your amendment will encourage communities to provide resources that enable the roads to also become safe for pedestrians, cyclists, seniors, transit users, and people with disabilities.

Completing the streets is the right thing to do. And especially as our population ages and increases in girth and Safe Routes to School programs increase in popularity, this is the right time to do it!

America Walks appreciates your focus on this very important issue. Your amendment, if passed, will increase transportation choices and safety for all users.

Sincerely,

SALLY FLOCKS,
Vice-President.

NATIONAL CENTER FOR BICYCLING & WALKING,
Bethesda, MD, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: I am writing on behalf of the National Center for Bicycling & Walking to express our appreciation and support for your proposed Complete Streets amendment to the transportation bill.

The actions called for in your amendment are the next logical step in a process going back more than 30 years, whereby the Congress has recognized progressive trends related to bicycling and walking emerging at the state, regional, and local levels and incorporated them into our national transportation policy. The policy actions detailed in your amendment will help improve the efficiency and effectiveness of transportation plans, programs, and projects at all levels of government, and provide the American people—people of all ages—with better roads and safer communities.

Our country needs this kind of leadership and support. We are beset by a host of public health challenges such as obesity, physical inactivity, and motor vehicle-related injuries and fatalities. We know we need to be more active and the public health experts have identified walking and bicycling as two of the best opportunities available to improve and maintain our health.

Sadly, the streets in many of our communities are not yet inviting places to take a walk or ride a bike. However, we know how to make them better. Your proposed amendment will ensure that we do what needs to be done, for our health and for the health and well-being of our children and grandchildren.

Thank you.

Sincerely,

BILL WILKINSON,
AICP, Executive Director.

ASSOCIATION OF METROPOLITAN PLANNING ORGANIZATIONS,
Washington, DC, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Association of Metropolitan Planning Organizations, we write in support of your amendment to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety. Metropolitan Planning Organizations (MPOs) are charged with planning for the nation's transportation needs and they work to protect and improve regions throughout the United States. MPOs

provide a locational nexus for representatives from various modes of transportation to come together in support of a more complete regional transportation system. We believe that your amendment will further the goal of ''Complete Streets'' and will provide much needed safety improvements for bicyclists and pedestrians, while alleviating congestion on our nation's roads.

We are pleased to see that this amendment targets MPOs in urban areas with populations greater than 200,000. While we recognize the importance of this amendment, we believe that requiring all MPOs to designate a bicycle/pedestrian coordinator would place an undue burden on our smallest members. Those MPOs that represent populations of greater than 200,000 are capable of these additional requirements, assuming that the PL increase to 1.5% that is currently in the Senate bill is realized. We are concerned, however, that if these requirements are imposed without a corresponding funding increase, we may not be able to meet these added expectations. The 2000 census designated 46 new MPOs but no additional funding was provided for these MPOs. As a result, over 350 MPOs are now sharing a pot of money that was established for approximately 300 MPOs.

We believe that ''Complete Streets'' is an important goal of a regional transportation system. We are pleased to see that you are offering this amendment as part of the transportation reauthorization bill. Please feel free to contact Debbie Singer at 202–296–7051 or dsinger@ampo.org if you have any further questions.

Sincerely,

MAYOR RAE RUPP SRCH,
AMPO President.

LEAGUE OF AMERICAN BICYCLISTS,
Washington, DC, May 11, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the 300,000 affiliated members of the League of American Bicyclists and the nation's 57 million adult bicyclists, I am writing to support the inclusion of the ''Complete Streets Amendment'' as part of SAFETEA.

In ISTEA and TEA–21, Congress established the principle that new road projects and reconstructions should provide safe accommodation of bicycling and walking. While some states are beginning to make progress in this area, federal guidance on this issue has been overlooked by many state and local transportation agencies.

The Complete Streets Amendment seeks to address this issue by simply directing all states to adopt a ''Complete Streets Policy'' to ensure that states build streets and highways that adequately accommodate all transportation users—including bicyclists, pedestrians, and people with disabilities. In addition, the amendment encourages local action on bike/ped safety, sets goals for nonmotorized transportation, and focuses research on nonmotorized travel safety.

These are all important issues to the bicycling community and beyond. Other important issues that we are pleased that the bill managers have already recognized include:

Strengthening our core programs (Enhancements, Recreational Trails, CMAQ, etc.);

Establishing a Fair Share for Safety Provision, which ties safety spending to fatality crash rates by transportation mode; and

Providing a National Safe Routes to Schools Program, which provides funding to improve infrastructure and education to make it safer for our nation's children to bike and walk to school.

We applaud you for your leadership on this issue. Likewise, we applaud the bill managers for their commitment to completing action on a reauthorization bill that includes good investments that will give all Americans safer places to bike and walk.

The adoption of the ''Complete Streets Amendment'' does not add to the cost of the overall bill and is, in fact, complementary to the bicycling provisions already included. As such, we support its inclusion in SAFETEA.

Sincerely,

MELÉ WILLIAMS,
Director of Government Relations.

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN, On behalf of NRDC and our 600,000 members, I am writing to express support for your Complete Streets Amendment. This set of commonsense policies would spur new construction and retrofitting of highways and roads that aren't currently accessible to bikers and pedestrians—i.e., ''completing the streets'' so that all users are welcome, not just drivers.

The amendment is particularly timely, as public health experts encourage Americans to walk and bike as a response to the obesity epidemic. Completing our streets can help to meet this goal. In fact, one study found that 43 percent of people with safe places to walk within 10 minutes of home met recommended activity levels, while just 27% of those without safe places to walk were active enough. And another recent study found that residents are 65% more likely to walk in a neighborhood with sidewalks.

Benefits include more than increased physical activity. Air quality in our urban areas is poor and linked to increases in asthma and other illnesses. Replacing car trips with biking or walking means less air pollution. And if each resident of an American community of 100,000 replaced just one car trip with one bike trip just once a month, it would cut carbon dioxide (CO_2) emissions by 3,764 tons per year in the community.

In short, I commend you for offering this amendment, which would provide Americans with more transportation choices, improve public health and reduce pollution.

Sincerely,

DERON LOVAAS,
Vehicles Campaign Director.

AMERICAN SOCIETY OF
LANDSCAPE ARCHITECTS,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the American Society of Landscape Architects, I write to convey our strong support for your proposed ''Complete Streets'' amendment to the SAFTEA legislation in the 109th Congress. In order to provide for safer and more active communities, we must complete our streets and roadways by ensuring that they are designed and operated to enable access for all users, including pedestrians, bicyclists and transit riders of all ages and abilities. In the past, the concerns of nonmotorized transportation users have been bypassed all too often, and your amendment takes a critical, common sense step toward a more comprehensive, integrated and effective transportation system.

Because of our nation's inherent strengths, continued growth, and boundless potential, we sometimes overlook the obvious as we forge ahead. We have arrived at the point where we have to take measures to better accommodate life outside of our automobiles. This is not a simple task, but, with proper planning, the benefits of a visionary approach will far outpace our initial efforts. Your amendment provides an appropriate and timely framework for those efforts by encouraging planning, prioritizing and research by states and municipalities.

If the Complete Streets Amendment is passed by the Senate, protected in conference, and signed into law along with the rest of SAFTEA, we can forecast the results with a great degree of confidence. Complete Streets will lead to improved safety, and promote a more active American lifestyle, with more walking and bicycling for health. Complete Streets will also help ease the transportation woes with which so many of us are increasingly familiar. Roadways that provide varying travel choices will give people the option to avoid traffic jams, reducing congestion and increasing the overall capacity of our transportation network.

This amendment also has an important place in the transportation bill because Complete Streets make fiscal sense. Integrating sidewalks, bike lanes, transit amenities, and safe crossings into the initial design of a project spares the costly expenses of retrofits later on ''down the road.''

As practitioners of urban design and revitalization, site planning, land use policy and master planning, landscape architects are continually engaged with public officials, developers and homeowners to design the places in which we live, work, and seek recreational opportunities. The American Society of Landscape Architects heartily encourages creating and improving access to places for physical activity within our communities.

It is not asking too much to make Complete Streets a national transportation priority. The Congress has worked long and hard to craft an effective transportation package, and the Complete Streets Amendment will put the country on the same ''planning page,'' providing us with sound footing as we move towards a stronger, safer, and healthier future. It is our hope that the United States Senate will recognize and endorse the wisdom of the Harkin Complete Streets Amendment. We thank you for your exemplary leadership on this critical component to the overall health, wellbeing, and functionality of our communities.

Sincerely,

PATRICK A. MILLER,
President.

FACTSHEET—NATIONAL ASSOCIATION OF COUNTY AND CITY HEALTH OFFICIALS

UNDERSTANDING THE ISSUES

Land use, community design, and transportation planning have an impact on the health of communities in relation to diseases and injuries, as well as quality of life and well being. Environmental conditions such as air quality, ground and surface water contamination, and the re-use of brownfields (used lands where expansion or redevelopment is complicated by real or perceived environmental contamination) affect disadvantaged populations more severely, particularly given the current separation between land use planning and public health. Local public health agencies (LPHAs) can ensure that community health is emphasized throughout the planning process by becoming involved during the early stages of land use planning. In order to ensure a better quality of life and the sustainability of our communities, it is important for planners and public health officials to collaborate on healthy solutions to the environmental health problems that exist where we live, work, and play. Planning and design decisions have a tremendous impact on a wide range of public health issues, including:

AIR QUALITY

Asthma and other respiratory diseases are caused, in part, by poor air quality. Poor air

quality is tied to pollution emitted from automobiles and other motor vehicles. In the United States, automobiles account for over 49 percent of all nitrogen oxide (NO_x) emissions, which contribute to smog and lead to serious health matters. Between 1980 and 1994, asthma rates rose by 75 percent. People in sprawling communities drive three to four times more than those who live in efficient, well-planned areas, thus increasing vehicle emissions that contribute to poor air quality.

WATER QUALITY

The National Water Quality Inventory: 1996 Report to Congress identified runoff from development as one of the leading sources of water quality impairment, accounting for 46 percent of assessed estuary impairment. In the United States, wetlands are being destroyed at a rate of approximately 300,000 acres per year, much of it for new development. Wastewater also poses a serious threat to water quality. In Florida, it is estimated that onsite sewage treatment and disposal systems discharge 450 million gallons per day of partially treated, non-disinfected wastewater, which can lead to contamination of ground water supplies.

TRAFFIC SAFETY

According to the National Personal Transportation Survey, walking accounts for only five percent of trips taken and less than one percent of miles traveled, due in part to a lack of appropriate and safe options for pedestrians. Approximately 4,882 pedestrians were killed by vehicles and 78,000 injured in 2001. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. Over 55 percent of all pedestrian deaths occur in neighborhoods, which are often designed with a bias toward cars, with no sidewalks or otherwise inadequate pedestrian accommodations.

PHYSICAL ACTIVITY

Community design often presents barriers to physical activity, contributing to increased risk for obesity, heart disease, diabetes, and other chronic diseases. Barriers include, but are not limited to, the absence of sidewalks, heavy traffic, and high levels of crime. Today, nearly one in four Americans is obese, and at least 50 percent are overweight. As access to recreational infrastructure may be limited, people with disabilities often have less opportunity to engage in physical activity. People are more likely to be physically active if they can incorporate activity into their daily routine. A 1996 report from the U.S. Surgeon General determined that each year, as many as 200,000 deaths are attributable to a sedentary lifestyle.

MENTAL HEALTH

According to the Human Environment-Research Lab, studies have shown that exposure to greenspace helps to foster an increased sense of community, and also lessens the effects of chronic mental fatigue, which reduces violence and aggressive behavior. A Cornell University study found that children whose families relocated to areas with more greenspace experienced an increase in cognitive functioning. Lack of accessibility, such as absence of ramps and narrow doorways, can contribute to an increase in isolation for the elderly and people with disabilities. Increased commuting time has been linked with physical and stress-related health problems. It is estimated that for each additional 10 minutes of driving time, there is a 10 percent decline in civic involvement.

HAZARDOUS MATERIALS

Hazardous materials are transported, stored, manufactured, or disposed of in many communities. Often, zoning and environmental regulations do not provide for the separation of incompatible land uses, like placing housing near areas zoned for use or storage of hazardous materials. In addition, hazardous waste sites continue to be a significant concern. The Environmental Protection Agency determined that one in every four children in the United States lives within one mile of a National Priorities List hazardous waste site. The United Nations Environment Programme links exposure to heavy metals with certain cancers, kidney damage, and developmental retardation.

SOCIAL JUSTICE

Evidence demonstrates that environmental hazards, air pollution, heat-related morbidity and mortality, traffic fatalities, and substandard housing disproportionately affect low-income and minority populations. Environmental Protection Agency data shows that Hispanics are more likely than Whites to live in air pollution non-attainment areas. Asthma mortality is approximately three times higher among Blacks than it is among Whites. As neighborhoods undergo gentrification, people of a lower socioeconomic status are pushed to the fringes, limiting their access to social services. A lack of public transportation options often exacerbates the problem and leaves minority populations disproportionately affected by less access to quality housing, healthy air, good quality water, and adequate transportation.

ROLE OF LPHAS

Because most land use planning occurs at the local level, it is essential that LPHAs become more integrated in the planning process in order to address and prevent unfavoravble outcomes for public health. LPHAs must assume a diverse and proactive approach in order to be successful in this role, including:

Forging partnerships between LPHAs and local planning and transportation officials in order to bring health to the planning table.

Using data to arm and inform stakeholders and decision makers, substituting national data if local data is unavailable.

Expanding the role of LPHAs in commenting on development plans.

Electing health officials to planning boards and other community positions.

Attending planning meetings regularly.

Serving as information conduits, keeping abreast of current processes and policies, and disseminating information to community members.

Adopting local resolutions on health and land use/transportation planning.

NACCHO'S ROLE

NACCHO's goal is to integrate public health practice more effectively into the land use planning process by enhancing the capacity of LPHAs to be involved in land use decision making. Through the development of tools and resources, NACCHO strives to promote the involvement of LPHAs with elected officials, planners, and community representatives in regard to health issues and land use planning. Focus groups conducted by NACCHO during the past year explored strategies for integrating public health and land use planning. To learn more, visit *www.naccho.org/project84.cfm*, or call (202) 783–5550 and ask to speak with a member of NACCHO's environmental health staff.

Mr. HARKIN. This amendment will improve our transportation system. It will improve pedestrian and bicycle safety.

And it will be good for the health and wellness of the American people. I urge my colleagues to join me in a strong, bipartisan vote in favor of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, as noted by the Senator from Iowa, this bill incorporates more for bicycles and pedestrians than most highway users can support. We have been very generous. The activities are eligible under the core programs for the National Highway System, STP, CMAQ, highway bridge funding. They are eligible under scenic byways, Federal lands, rails and trails.

Do not get me wrong. I like bikes. I used to be a big bike rider. I am a big walker. But this is a highway bill. This is not a bill for bicycles and pedestrians. I would urge everyone to get exercise. The proposal we have before us would require my State department of transportation to plan for bicycles, completing Highway 63 from Macon to the Iowa line. Most of my good friends along there are not going to ride a bicycle from Macon to the Iowa line, to the wonderful farm fields in north Missouri or along the hilly mountain paths of Highway 60 in southern Missouri in the Ozark Mountains or Highway 13 or Highway 71.

We have plenty of programs. Bicycle transportation and pedestrian walkways are under here. It provides grants of $2 million. They want a bicycle clearinghouse like a Publishers Clearinghouse.

The proponent of this amendment says he needs it for the metropolitan planning organizations. Well, if my colleagues will look at section 134(a)(3) contents, the plans and programs for each metropolitan area shall provide for development and operation facilities, including pedestrian walkways and bicycle transportation. Metropolitan planning organizations already are mandated to do that.

Section 1823 has enhancement projects approved. They are eligible for facilities for pedestrians and bicycle activities, preservation for abandoned railway corridors. Similar to the administration's proposed SAFETEA, we elevated SAFETEA to a core program. This part, known as HSIP, there is a mandatory set-aside specifically for bicycle and pedestrian activities. We set it up as $717 million, and since the overall level of the bill has been raised by $8 billion, this level has gone up.

There is also the Safe Routes to School Program. If you want people to be safe going to school, the National Highway Traffic Safety Administration said 24 people die a year on average from school bus transportation, but it is far and away the safest way for children to go to and from school. That is by schoolbus.

A number of my colleagues have amendments regarding bicycle and pedestrian activities. It seems that they have some different priorities than the mayors and the community leaders and the State departments of transportation I see in my State. They want to make sure we have roads. If the department of transportation in Iowa and

Missouri want it, they can plan for it, as can the metropolitan planning organizations. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the hour of 5:30 having arrived, the question is on agreeing to the Lautenberg amendment.

Mr. INHOFE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOND. I ask unanimous consent to make a unanimous consent request on an amendment passed?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment agreed to previously, be conformed to the pending amendment—the amendment which is identical to the amendment agreed to, be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I reserve the right to object—I will object.

Objection is heard.

The question is on agreeing to the Lautenberg amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''nay.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—28

Akaka	Durbin	Martinez
Biden	Feinstein	Mikulski
Boxer	Frist	Murray
Byrd	Harkin	Reid
Cantwell	Inouye	Rockefeller
Chafee	Kennedy	Sarbanes
Corzine	Landrieu	Warner
DeWine	Lautenberg	Wyden
Dodd	Levin	
Dole	Lieberman	

NAYS—69

Alexander	Collins	Isakson
Allard	Conrad	Jeffords
Allen	Cornyn	Johnson
Baucus	Craig	Kerry
Bayh	Crapo	Kohl
Bennett	DeMint	Kyl
Bingaman	Dorgan	Leahy
Bond	Ensign	Lincoln
Brownback	Enzi	Lott
Bunning	Feingold	Lugar
Burns	Graham	McCain
Burr	Grassley	McConnell
Carper	Gregg	Murkowski
Chambliss	Hagel	Nelson (FL)
Clinton	Hatch	Nelson (NE)
Coburn	Hutchison	Obama
Cochran	Inhofe	Pryor
Reed	Shelby	Sununu
Roberts	Smith	Talent
Salazar	Snowe	Thomas
Santorum	Specter	Thune
Schumer	Stabenow	Vitter
Sessions	Stevens	Voinovich

NOT VOTING—3

Coleman	Dayton	Domenici

The amendment (No. 625) was rejected.

AMENDMENT NO. 618, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Harkin amendment.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, this amendment is about doing what is logical regarding sidewalks and bike paths in the planning stages. You will hear there is money in this bill for sidewalks and bike trails. That is true. But more often than not, we are always doing things after the fact. We are redoing it.

All this amendment says is in the planning upfront, you plan for sidewalks where they are logical. You plan for bike paths where they are logical. You plan it in the beginning, not doing it later on. These are some of the organizations who support the amendment: the American Association of Retired People, the Association of Metropolitan Planning Organizations—they are the ones who have to do the planning; they are in favor of this amendment—American Bikes, Paralyzed Veterans of America—people with disabilities need more sidewalks—the American Heart Association, and the American Public Health Association.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment. This provides tremendous resources for bicycles and pedestrians, more than $717 million in a mandatory set-aside for bike and pedestrian activities. Metropolitan planning organizations are already required under existing law to plan for bike and pedestrian facilities. What this amendment says is: If you are planning a highway from Leftover Shoes to Podunk Junction in the middle of a State with nobody around, you would have to plan for a bike path. We have a lot of roads through our Ozark hills and farmland where the danger is inadequate two-lane highways. People are not going to ride bicycles along those highways. They need the lanes to drive their cars. Putting an additional planning burden on agencies that don't want or need bike paths is another unwarranted mandate. I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 618, as modified.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—44

Akaka	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Corzine	Leahy	Snowe
Dodd	Levin	Stabenow
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wyden
Ensign	Mikulski	

NAYS—53

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Baucus	Enzi	Nelson (NE)
Bennett	Frist	Roberts
Bond	Graham	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Burr	Hatch	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Coburn	Isakson	Talent
Cochran	Jeffords	Thomas
Conrad	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	

NOT VOTING—3

Coleman	Dayton	Domenici

The amendment (No. 618), as modified, was rejected.

AMENDMENT NO. 610 TO AMENDMENT NO. 605

Mr. NELSON of Florida. Mr. President, on behalf of Senator FEINGOLD, I ask unanimous consent to call up his amendment 610 and ask that it be set aside after reporting by the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for Mr. FEINGOLD and Mr. LEAHY, proposes an amendment numbered 610.

The amendment is as follows:

(Purpose: To improve the accuracy and efficacy of identity authentication systems and ensure privacy and security)

In section 179(a) of title 23, United States Code (as added by section 7139(a)), insert ''previously verified as accurate'' after ''other information''.

In section 179(a) of title 23, United States Code (as added by section 7139(a)), strike ''with a system using scoring models and algorithms''.

In section 179(d)(1) of title 23, United States Code (as added by section 7139(a)), strike ''use multiple sources'' and insert ''ensure accurate sources''.

In section 179(d)(3) of title 23, United States Code (as added by section 7139(a)), strike ''and'' at the end.

In section 179(d) of title 23, United States Code (as added by section 7139(a)), strike paragraph (4) and insert the following:

''(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

''(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

''(6) include procedures to ensure accuracy and enable applicants for commercial driver's licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

''(7) ensure that the information-based identity authentication described in this section—

''(A) can accurately assess and authenticate identities; and

''(B) will not produce a large number of false positives or unjustified adverse consequences;

''(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

''(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.''.

JUSTICE FOR TODD SMITH

Mr. NELSON of Florida. Mr. President, just today I initiated an effort to ask Peruvian President Alejandro Toledo to reopen an investigation into the brutal torture-murder of a young journalist from my state.

The 28-year-old reporter, Todd Smith, was found dead 15 years ago, his body discovered in Peru's violent coca-producing region. This son of a Florida appellate judge worked for The Tampa Tribune, and was investigating the drug traffic in the northern Peruvian jungle.

Officials in Peru were quick to say the murder was the work of the Shining Path—a Maoist insurgent group said to be involved in protecting cultivators of the coca plant. Specifically, Peru's Interior Ministry said Todd had been captured by Maoist rebels and possibly sold to drug traffickers for $30,000.

Four years later, a secret counterterrorism trial in Peru resulted in a Shining Path guerrilla being sentenced to 30 years in prison for taking part in the murder.

He was the only person ever tried for the crime—and even he reportedly has received an early release. Little else was known.

Now, however, the transcript of that secret 1993 trial has emerged, including an intelligence report that identifies a businessman who founded a Peru airline as one of the masterminds behind Todd's killing. The complete court file was obtained by a Lima-based institute for a free press and society.

According to one of several detailed intelligence reports in the trial transcript, the guerrillas who tortured and strangled Todd were working for Peru businessman Fernando Zevallos, and two others allegedly involved in the drug trade.

But Zevallos—labeled a Peruvian cocaine kingpin last year by the Bush administration—was never charged in the case. The New York Times quotes American and Peruvian authorities as saying he has evaded justice for so long by bribing court officials and killing witnesses.

It has been over 15 years since a son of Florida and a member of the fourth estate was tortured and strangled to death in the jungles of Peru—and clearly, justice has yet to be served.

In January, I went to Peru and there I established a working relationship with President Toledo and was joined by Ambassador Ferrero, Peru's ambassador to the United States

Today, through proper diplomatic channels, I made a formal request that President Toledo immediately reopen the investigation into Todd Smith's death; and, that his government cooperate fully with our State Department and FBI. And Ambassador Ferrero told me he ''would put all [his] effort into this.

I hope my Senate colleagues will join me in demanding that justice finally be served in this case.

Todd's parents, and his two sisters, deserve no less.

Mr. President, I am going to birddog this with everything I have to see that this case is brought to justice. I do believe the Peruvian government clearly has an interest, now that the secret court files have come to light, to get to the bottom of this. I earnestly hope we will get the cooperation of the Peruvian government in reopening the investigation. There is no excuse, when an American newspaper reporter is brutally tortured and murdered, that we should not have all the facts. If it leads, in fact, to this businessman, then so be it. We owe this especially to this family in Florida that for so long has not known any of the facts of this brutal killing of their son.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 742 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment previously agreed to, be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. TALENT, proposes an amendment numbered 742.

The amendment is as follows:

(Purpose: To require notice regarding the criteria for small business concerns to participate in Federally funded projects)

At the end of subtitle H of title I, add the following:

SEC. 18___. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

The PRESIDING OFFICER. Without objection, the request is agreed to.

The amendment (No. 742) was agreed to.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that we now go into a period of morning business, providing that each Senator can speak up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SERGEANT DAVID RICE

Mr. GRASSLEY. Mr. President, it saddens me to report today that another young Iowan has fallen courageously in service to his country as part of Operation Iraqi Freedom. Sergeant David Rice, a fire support specialist with the 1st Battalion, 5th Field Artillery Regiment, 1st Infantry Division, died on April 26 when his vehicle overturned near Muqdadiyah. He was 22 years old.

David grew up in Sioux City, IA, and attended East High School where he excelled in football, wrestling, and track and field. He joined the Army after graduating from East in 2001 and was on his second tour of duty in Iraq.

David Rice is remembered by friends and family as a hard-working, quiet leader. In memory of Sergeant Rice, I would like to recognize today all of our military men and women, like David, who have been the quiet, dedicated leaders who have helped see our country through this difficult time. My prayers go out to the family of Sergeant David Rice, his father David, his mother Laurinda, and his sister Stevie. They should know that his leadership and sacrifice have not gone unnoticed but have earned him the gratitude of a Nation.

SERGEANT ANGELO L. LOZADA, JR.

Mr. GREGG. Mr. President, I rise today to remember and honor Sergeant Angelo Lozada, Jr. of Nashua, NH for his service and supreme sacrifice for his country.

Angelo demonstrated a willingness and dedication to serve and defend his country by joining the United States Army. Just as many of America's heroes have taken up arms in the face of dire threats, Angelo dedicated himself to the defense of our ideals, values, freedoms, and way of life. His valor and service cost him his life, but his sacrifice will live on forever among the many dedicated heroes this Nation has sent abroad to defend freedom.

Angelo felt the call to serve our Nation early, and dutifully joined the Reserves after he graduated from high school. He served for 6 years in the New Hampshire Army National Guard's Bravo Battery, 1st Battalion, 172nd Field Artillery Regiment before signing up for active duty on July 26, 2000. He was deployed to Iraq in 2003, where he served in Alpha Battery, 2nd Battalion, 17th Field Artillery Regiment, 2nd Infantry Division, stationed out of Camp Hovey, Korea. Tragically, on April 16, 2005, Angelo made the ultimate sacrifice for this great Nation. He died of injuries sustained while conducting combat operations in Ar Ramadi, Iraq.

Throughout his career, Angelo earned a series of accolades which testify to the dedication and devotion he held for his fellow soldiers, the Army, and his country. Angelo's hard work and dedication contributed greatly to his unit's successes and placed him among many of the great heroes and citizens that have paid the ultimate price for their country. Angelo was recognized posthumously for his courageous actions in Iraq by receiving the Bronze Star, the Purple Heart, and an Army Commendation Medal. He had also been recognized throughout his distinguished career by receiving the Army Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Korean Defense Service Medal, Army Service Ribbon, and the Weapons Qualification Badge, M–16 Expert. He was also a graduate of the Primary Leadership Development Course and was recently promoted to Sergeant in May of 2004.

Angelo was truly an exceptional soldier with more than 10 years of service and a father of three who had decided to reenlist after his tour of duty in Iraq. He leaves behind a family with a proud tradition of military service, including three brothers who served in the Army.

My condolences and prayers go out to Angelo's family, and I offer them my deepest sympathies and most heartfelt thanks for the service, sacrifice, and example of their soldier, Sgt Angelo Lozada, Jr. He was respected and admired by all those around him, and continually performed above and beyond all expectations while in the United States Army. Because of his efforts, the liberty of this country is made more secure.

MORE OPPOSITION TO THE GUN INDUSTRY IMMUNITY BILL

Mr. LEVIN. Mr. President, since the reintroduction of the Protection of Lawful Commerce in Arms Act, many law enforcement and community groups around the country have publicly stated their opposition to the bill. In Michigan alone, the bill is opposed by organizations including the Michigan Association of Chiefs of Police, the League of Women Voters of Michigan, the Michigan Partnership to Prevent Gun Violence, and local chapters of the Million Mom March.

Law enforcement and community groups oppose the misnamed ''Protection of Lawful Commerce in Arms Act'' because it would significantly weaken the legal rights of gun violence victims. The bill would provide members of the gun industry with legal protections not enjoyed by other industries and deprive many gun violence victims with legitimate cases of their day in court.

Two former Directors of the Bureau of Alcohol, Tobacco, and Firearms have added their voices to the already considerable and growing opposition to this bill. In a letter to Congress, former ATF Directors Stephen Higgins and Rex Davis state that the gun industry immunity legislation would threaten the ATF's ability to effectively enforce our Nation's gun laws. Specifically, they cite provisions in the bill that would likely block the ATF from pursuing administrative proceedings ''to revoke a gun dealer's federal firearm license if the dealer supplies guns to criminals or other prohibited buyers'' and ''to prevent the importation of non-sporting firearms used frequently in crimes.'' Later in the letter, former Directors Higgins and Davis state:

> We know from experience how important it is that ATF be able to enforce our nation's gun laws to prevent firearms from being obtained by terrorists, other criminals, and the gun traffickers who supply them. To protect our citizens from the scourge of gun violence Congress should be strengthening our laws and increasing ATF's resources and ability to enforce those laws. To handcuff ATF, as this bill does, will only serve to shield corrupt gun sellers, and facilitate criminals and terrorists who seek to wreak havoc with deadly weapons. To take such anti-law enforcement actions in the post-9/11 age, when we know that suspected terrorists are obtaining firearms, and may well seek them from irresponsible gun dealers, is nothing short of madness.

Combined, former Directors Higgins and Davis have more than two decades of experience in leading the ATF. We should recognize their extensive knowledge of gun violence issues and follow their advice. Instead of providing a single industry with broad immunity, we should be protecting the legal rights of gun violence victims and enhancing the effectiveness of our law enforcement agencies.

I ask unanimous consent that a list of some of the law enforcement and community organizations opposing this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MICHIGAN ORGANIZATIONS

Michigan Association of Chiefs of Police
League of Women Voters of Michigan
Michigan Partnership to Prevent Gun Violence
Detroit Million Mom March Chapter
East Metro Detroit Million Mom March Chapter
Mid-Michigan/Lansing Million Mom March Chapter
Novi Million Mom March Chapter
Southwest Michigan Million Mom March Chapter
Washtenaw County MMM Chapter
West Metro Detroit/Washtenaw County Million Mom March Chapter

NATIONAL LAW ENFORCEMENT ORGANIZATIONS

International Brotherhood of Police Officers
Major Cities Chiefs Association
National Black Police Association
Hispanic American Police Command Officers Association

OTHER NATIONAL ORGANIZATIONS

Alliance for Justice
American Association of School Psychologists
American Association of Suicidology
American Bar Association
Americans for Democratic Action
American Humanist Association
American Public Health Association
Brady Campaign To Prevent Gun Violence united with the Million Mom March
Child Welfare League of America
Children's Defense Fund
Church Women United
Coalition To Stop Gun Violence
Common Cause
Congregation of Sisters of St. Agnes Leadership Team
Consumer Federation of America
Consumers for Auto Reliability and Safety
Disciples Justice Action Network
Equal Partners in Faith
Evangelical Lutheran Church in America
Hadassah The Women's Zionist Organization Of America
HELP Network
League of Women Voters of the U.S.
Legal Community Against Violence
National Council of Jewish Women
National Council of Women's Organization
National Research Center for Women & Families
Physicians for Social Responsibility
Presbyterian Church (USA)
Public Citizen
Religious Action Center of Reform Judaism
States United to Prevent Gun Violence
The American Jewish Committee
The Ms. Foundation for Women
The Society of Public Health Education (SOPHE)
The United States Conference of Mayors
Unitarian Universalist Association of Congregations
Veteran Feminists of America
Women's Institute for Freedom of the Press

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. McCAIN. Mr. President, when the Senate debated this bill a few weeks

ago, I asked my colleagues a simple question. What is the purpose of an emergency appropriations bill? The purpose, it seems to me, is to fund unexpected priorities—emergencies that simply cannot wait for the normal budget process. The conference report largely fulfills that purpose. It covers unexpected costs associated with the war on terror, tsunami relief, and national security priorities, including funding for our troops serving in Iraq and Afghanistan. I strongly support funding in these areas.

But that is not all it does, Mr. President. This conference report has also served as a magnet for non-emergency spending and includes a host of earmarks. Let me be clear: I support this conference report because of the critical resources it provides for our troops and for our other emergency priorities, including tsunami relief. But at the same time I am deeply disturbed that the Congress isn't exhibiting restraint. Knowing that this conference report was a ''must pass'' piece of legislation, we have once again loaded it with unrelated provisions. Let me remind my colleagues that we are experiencing enormous budget deficits. At some point, we will have to embrace some degree of fiscal responsibility.

We should start with this emergency supplemental. The scope of emergency appropriations has traditionally been limited, and for good reason. We already have a proper budget and appropriations process. We don't need another. The proper process is supposed to allow Congress to meet Federal responsibilities while closely monitoring the effect our spending has on the budget deficit and the national debt. But appropriations that are designated as ''emergency'' do not count against the discretionary budget ceilings that we ourselves set. They add to costs incurred by the government and cause the current budget deficit to grow. With enactment of this measure, supplemental military spending alone since September 11, 2001, will top $200 billion. I am not questioning funding the war on terror; but I am questioning the unnecessary add-ons.

With respect to the substance of this conference report, I am pleased that it will provide the necessary resources to our troops as well as additional funds for our homeland security needs. It increases veterans benefit levels and expands eligibility, and provides higher benefits to family members of those killed in military service. This foreign affairs provisions of the conference report are remarkably, and commendably, free of pork. As one who supports ensuring that every taxpayer dollar counts, I commend my colleagues for their restraint in this area while meeting the President's request for funding for the victims of the South East Asian tsunami.

Unfortunately, this conference report also includes some unnecessary provisions, examples of which I will give in just a moment. I fully recognize that it isn't only the fault of the appropriators that the Congress has been forced into this new pattern of adopting emergency appropriations measures. Overly partisan politics has largely prevented us from following the regular legislative order, and that fact must change.

I would ask my colleagues whether they believe the following examples—just a select few from this conference report—constitute ''emergency spending'': $2,000,000 to upgrade the chemistry laboratories at Drew University in New Jersey. According to its website, Drew University has a total enrollment of 2,600 students, operates with a $200,000,000 endowment, and draws more National Merit Scholars than many other top liberal arts colleges in the nation. A prestigious institution indeed, but I see no way in which funding for its chemistry labs is a critical national spending emergency; $500,000 for the Oral History of the Negotiated Settlement project at the University of Nevada-Reno; $2,000,000 to continue funding for the Southeast Regional Cooling, Heating and Power and Biofuel Application Center in Mississippi; $4,000,000 to payoff debt at the Fire Sciences Academy in Elko, Nevada; and $2,000,000 for the National Center for Manufacturing Sciences in Michigan.

Additionally, notwithstanding Senate rules against legislating on an appropriations bill, the legislation before us today contains plenty of policy-related, non-appropriations language. For example: The conference report directs the Secretary of the Interior to allow oil and gas exploration underneath the Gulf Island National Seashore, a protected National Park in Mississippi. This changes current Federal policy disallowing such exploration; a line-item in the conference resolution blocks the EPA from revising how it collects fees for the registration of pesticides. For several years, similar language has been routinely added to VA–HUD/EPA appropriations legislation. Now this provision has found a new home in the emergency spending bill; it authorizes the Bureau or Reclamation to study the viability of establishing a sanctuary for the Rio Grande Silvery Minnow in the Rio Grande River; it directs the Army Corps of Engineers to complete the Indiana Harbor and Canal disposal project; and California lawmakers have seen to it that this bill provides funds for San Gabriel Basin restoration.

Mr. President, we simply must start making some very tough decisions around here if we are serious about improving our fiscal future. Let's be clear about what we are doing. The Government is running a deficit because it is spending more than it takes in. So each one of the earmarks in this bill, we are borrowing money—and saddling future generations of Americans with unnecessary debt. If we had no choice but to act in this way, this might be, a understandable, temporary method of budgeting. But the fact is that we do have a choice.

At a conference in February, 2005, David Walker, the Comptroller General of the United States, said this:

> If we 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 that:

> (T)he 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.

It falls on the Congress, my friends. The head of the U.S. Government's chief watch-dog agency and the Nation's chief economist agree—we are in real trouble.

Dire predictions, and what are we doing about it? Are we restraining our spending? No, of course not. We are at it again, finding new and ever more creative ways to funnel money to the special interests. We have to face the facts. Congress cannot continue to spend taxpayer dollars on wasteful, unnecessary pork barrel projects or cater to wealthy corporate special interests any longer. The American people deserve better.

OLDER AMERICANS MONTH

Mr. SARBANES. Mr. President, when President Kennedy established Older Americans Month in 1963, he began an important tradition of designating a time for our country to honor older citizens for their many accomplishments and contributions to our Nation. Now, as we recognize May as ''Older Americans Month,'' I welcome the opportunity to reflect on the contributions senior citizens have made in shaping our Nation and to reassert our commitment to enhancing the living standard of our senior community.

This year's theme is ''Celebrate Long Term Living.'' Many seniors in Maryland exemplify that idea, continuing to lead vital, active lives throughout their ''golden years.'' Bob Ray Perry Hall, from Hamilton, MD, who ran every day from April 4, 1967 until his 68th birthday on April 7, 2005, is one such example. Mr. Hall holds the longest consecutive running streak in the United States and the second longest record in the entire world, a remarkable accomplishment at any age. Ms. Evelyn Wright of Annapolis is another

senior to celebrate. In 2003, Ms. Wright was named National Master Field Athlete of the Year for 2003 and since the age of 55, she has amassed hundreds of medals and trophies as a competitor in Senior Olympic events. She started her track and field career with the softball throw, but now competes in a multitude of events including pole vault, high jump, long jump, and hammer throw. She continues to travel around the country competing and setting track and field records for her age group. Many seniors in Maryland are enjoying old age by starting new ventures. At age 68 and 66 respectively, Emily Levitas and Linda Segal decided to join forces and become co-owners of ''Gotta Have Bags,'' a successful handbag store located in Hampden.

The list of enterprising, energetic, and active Maryland seniors and others throughout the Nation goes on and on and extends to all facets of life. We are very grateful for the enormous contributions they make day in and day out. But as a Nation, we do not always live up to our end of the bargain. There is much to be done to help seniors sustain quality long-term living. I have worked diligently in the Senate to ensure that older Americans are able to live with dignity and independence during their later years, and we will continue to fight the recent slew of misguided attacks on Social Security, Medicare, and other programs so crucial to senior citizens.

I have significant concerns about the impact of Medicaid cuts on seniors. People often forget that Medicaid is the largest funding source for long-term care services, institutional and home-based, for the elderly. Without such aid, many older Americans could not manage to pay for adequate care. Yet the Administration proposes to slash this program while extending tax cuts for the wealthiest among us. It is difficult to ''celebrate long-term living'' if you cannot afford to secure reasonable quality healthcare and long-term living facilities.

Another critical need that must be addressed is affordable prescription drugs. I voted against the Medicare Prescription Drug and Modernization Act of 2003 because I believed it would jeopardize promises that we as a Nation have made to seniors. I was principally concerned that the new law would fail to provide a comprehensive, consistent, and affordable prescription drug benefit to Medicare beneficiaries. Many of the concerns that I had during consideration of that measure are now coming to fruition. Indeed, as we prepare for the implementation of the drug benefit in 2006, we are just now learning that seniors will encounter the uncertainty of incomplete coverage for drug costs, along with rapidly rising pharmaceutical costs. To address these concerns, I favor proposals that provide Medicare beneficiaries with full prescription drug coverage. In addition, a number of my colleagues and I supported legislation during the Senate's consideration of the Medicare overhaul that would have controlled drug prices by allowing our Government to negotiate directly with drug companies. Unfortunately, these proposals were defeated when they came to the Senate for a full vote, but I continue to work with my colleagues on these and other proposals to bring drug prices under control.

On top of all of this, the Medicare trustees have predicted exhaustion of the Medicare Hospital Inpatient Trust Fund in 2020. With the rising costs of drugs and health care in general, and the implicit lack of means to reduce drug costs in the new law, we will be faced with hard decisions sooner than originally anticipated. The answer to the funding gap must not be to decrease benefits. A comprehensive Medicare plan and affordable pharmaceuticals are two important pieces that could help seniors live with dignity and independently, but these crucial needs remain very much in jeopardy.

Finally, our seniors deserve the guarantees promised to them after years of contributing to the Social Security program. In 1935, President Roosevelt sought to create a program that would ''give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old age.'' There are those who suggest that the only way Social Security can meet the expanding demand of future retirees is by creating private accounts and simultaneously decreasing benefits. We must work to preserve, not diminish, Roosevelt's legacy. Thus far, Social Security has been effective in improving the standard of living and reducing poverty among the elderly and disabled by providing an inflation-indexed, defined benefit, no matter how long an individual lives and regardless of the vagaries of the stock market. Throughout their lives, seniors have paid into a system with the understanding that their benefits will be there for them when they retire. We must uphold our end of the bargain and ensure that these benefits are available. The words of President Roosevelt should continue to guide our conscience.

This Older Americans Month I ask my colleagues to respect and renew our commitment to our seniors and all of our citizens. As seniors face old age, they should not face uncertainty about their living situations, about their access to health care, and about their financial circumstances. Our older Americans add great value to our Nation. We must take this month as an opportunity to redouble our efforts on behalf of this and future generations so that our older Americans can continue to ''Celebrate Long-Term Living'' now and well into the future.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Ms. LANDRIEU. Mr. President, today I have 18 young men and women from Louisiana and the Washington area taking part in Take Our Daughters and Sons to Work Day. I am going to submit all of their names for the RECORD to show that they spent a day working in the Senate with me and with some of the other Senators and have seen firsthand the work that goes on.

I want to acknowledge the MS Magazine Foundation that started Take Our Daughters and Sons to Work Day to thank them for organizing this effort where there are thousands, maybe perhaps millions, of young people who have taken a day out of their school work to go to the various places where Americans are working to contribute to making this country of ours a better country and this world a better place.

I thank these young men and women for being a part of this special day and taking their time to come and learn about the workings of the Senate:

From St. Catherine of Siena School: Gabrielle Bordlee, Metairie, LA;

From Schriever Elementary School: Cameron Dark, Houma, LA;

From Georgetown Day School: Alexa Dettlebach, Chevy Chase, MD;

From St. Francis Xavier School: Brennan Duhe, Baton Rouge, LA;

From Washington International School: Maggie Johnson, Washington, DC;

From Holy Name of Jesus School: Ben Landrieu, New Orleans, LA;

From Xavier University Preparatory School: Jasmine Love, New Orleans, LA;

From Cathedral-Carmel School: Andrew Mahtook, Lafayette, LA;

From Cathedral-Carmel School: Robbie Mahtook, Lafayette, LA;

From Tchefuncte Middle School: William Mitchell, Mandeville, LA;

From St. James Episcopal Day School: Dexter Righteous, Baker, LA;

From Georgetown Day School: Molly Roberts, Washington, DC;

From Georgetown Day School: Connor Snellings, Washington, DC;

From Georgetown Day School: Mary Shannon Snellings, Washington, DC;

From St. George's Episcopal School: Leah Thomas, New Orleans, LA;

From St. Clement of Rome School: Mary Catherine Toso, Metairie, LA;

From St. Elizabeth School: Charlie Triche, Napoleonville, LA;

From St. Joseph Elementary: Sam Triche, Napoleonville, LA.

CONTRIBUTIONS OF MISS ELIZABETH BRYDEN TO THE SENATE REPUBLICAN CONFERENCE

Mr. SANTORUM. Mr. President, in 1939, before many Members of this body had been born, Miss Elizabeth Bryden of Waltham, MA, came to Washington, D.C. to work for Congressman Robert Luce. She continued to work on the Hill, with little interruption, until the start of the 96th Congress in 1979. Today, when most Hill staffers remain here for only a few years, Betty Bryden, as she was always known, remains an example of rare dedication and extraordinary public service.

Her early employers are now mostly names for the history books. For example, Senator Leverett Saltonstall of Massachusetts and Bourke Hickenlooper of Iowa, not to mention

Gordon Allot of Colorado and Congressman McIntyre of Maine. Several of those gentlemen chaired the Senate Republican Conference, a position I now hold.

As the research librarian for the Republican Conference, in the days before computers, Betty would come into the Russell Senate Office Building hours before most staffers would arrive. By the time the Senate began business for the day, she would have copied, filed, and cross-filed, in what must have been one of the world's most elaborate reference systems, scores of that day's news items from a wide variety of sources. The cumulative result was a towering warren of filing cabinets, jammed with thousands of sheets of paper, the location of each of which she somehow remembered. It was not unusual for Senators to request urgent information from both the Congressional Research Service and Betty, knowing there was a good chance she would have it on their desks long before the official system could respond.

With today's internet, of course, it is not necessary for our staff to literally walk across town through a winter blizzard in order to provide the day's news clips, but that is what Betty was known to do on occasion. Little wonder, then, that she had a special place in the hearts of many Senators. Another remarkable Republican woman, Senator Margaret Chase Smith, was especially close to Betty and requested that she join the board of the Smith Library in Maine, on which Betty still serves.

It must be admitted that, during most of the period when Betty worked on the Hill, opportunities for advancement for women were limited. It's hard to imagine how they ran this place without the full participation of women; we could not manage to do that today. And yet Betty always found ways to make a difference. At the request of Senator Saltonstall, for example, she took under her wing a young man who needed to be trained as a legislative assistant. Even though, as a woman, she was not eligible for the job, she produced a first-rate legislative aide. The young man was named Eliott Richardson, and throughout his later career he never forgot his teacher and always made a point of paying his respects to her personally when his official duties brought him to the Senate.

On behalf of the Senate Republican Conference and its leadership past and present, I salute Betty for her lifetime of labor in our behalf and, indeed, for the entire Senate. Betty's contributions to this institution are still appreciated, and she remains an inspiration to us all.

ADDITIONAL STATEMENTS

A TRIBUTE TO LEONARD WING, JR.

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a good friend, Leonard Wing, Jr., who passed away Saturday, April 30, 2005. Leonard was a decorated war hero, a civic leader, a devoted family man, and a great Vermonter.

I knew Leonard almost my entire life. We grew up across the street from each other on Kingsley Avenue in Rutland, VT. When I was a young boy, Leonard left Vermont to fight in World War II. Leonard was wounded and taken prisoner in Europe before escaping and fleeing to northern Africa with help from the Polish underground. For his efforts in the European Theatre, Leonard was awarded the Silver Star and the Purple Heart, in addition to other commendations. I still remember listening in awe as my neighbors in Rutland recounted the heroics of Leonard and his father, MG Leonard Wing, Sr., who was a Vermont legend for his military leadership in the South Pacific. Leonard Wing, Jr. went on to serve for over 30 years in the Army and Army National Guard before retiring as a brigadier general in 1973.

After World War II, Leonard returned to the United States and continued his studies, graduating from the Boston University School of Law in 1950. After law school, Leonard returned to Vermont and became one of the State's finest attorneys, practicing law in Rutland for 46 years. During his legal career, Leonard served as both the president of the Vermont Bar Association and the State director of the American College of Trial Lawyers.

To residents of Rutland, Leonard is probably best known, however, for his local leadership and civic involvement. Leonard sat for 6 years on the Rutland City Board of School Commissioners, part of that time serving as the board's president. Most significantly, Leonard helped found the Havenwood School in Rutland. He also served as president of that school in addition to holding the same post at the Rutland Association for Retarded Citizens and the Vermont Association of the Retarded. These are just a few notable examples of the many charitable and civic activities to which Leonard lent his time.

Leonard's life was marked by his extraordinary service to his local community, his State, and his country. The city of Rutland, and the State of Vermont, will not be the same without Leonard's leadership. He will be most missed, however, by those he loved most dearly: his family. I offer my condolences to his wife Mary and their nine children. I hope they take comfort in knowing that Leonard's accomplishments and service will not soon be forgotten by the scores of Vermonters whose lives he touched.●

HONORING T. LAMAR SLEIGHT

● Mr. CRAPO. Mr. President, I rise today to honor a native Idahoan who has distinguished himself in the military, public service, and as a religious contributor. T. LaMar Sleight retired recently from his position as the Director of International and Government Affairs for The Church of Jesus Christ of Latter-Day Saints. LaMar is a native of Idaho, born in Montpelier and educated in Preston. In his years of public service, he has set a fine example of leadership and dedication.

LaMar served more than 34 years in the military, retiring in 1993 as a Colonel in the United States Army. He joined the National Guard at age 18. Eventually the Guard sent him to OCS and he joined the Army. He was awarded three awards of the Legion of Merit and the Bronze Star medal. His overseas assignments took him to Korea, Vietnam and Germany. Assignments closer to home include Oklahoma, Georgia, Nebraska, and Washington, DC. His military career clearly influenced his organized and structured leadership style.

Upon retiring from the military, LaMar took up the challenging position as the Director of International and Government Affairs for The Church of Jesus Christ of Latter-Day Saints. He has been an outstanding liaison for the LDS Church and the international community. I have enjoyed my interaction with him during my tenure in Congress, which extends back more than 12 years. He has a calming, measured demeanor and could always be counted on to provide a full view of any issue that was being discussed.

No doubt LaMar is balancing his ongoing volunteer service to his church with lots and lots of golf. With 6 children and 11 grandchildren, there is also a lot of family time and experiences ahead. I wish him the best as he undertakes this change in his life.●

WE THE PEOPLE

● Mr. OBAMA. Mr. President, recently, more 1,200 students from across the United States visited Washington, DC to take part in the national finals of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed specifically to educate young people about the U.S. Constitution and Bill of Rights.

I applaud the class from Maine Township High School in Park Ridge that skillfully represented the great State of Illinois in this prestigious national event. Through their knowledge of the U.S. Constitution, these outstanding students won the statewide competition and made Illinois proud in the national competition here in our Nation's capitol.

Congratulations to Nicole Calabrese, Carly Calkins, Emily Cottrell, Keith Dent, Katie Eichstaedt, Alyssa Engle,

Katie Funkhouser, Kathryn Futris, Jacqueline Heffernan, Kevin Kane, Erin Keating, Maddie Kiem, Dan Leung, Mike Mangialardi, Kelly McKenna, Ryan Morrisroe, Allison Mueller, Jessica Newton, James Pikul, Elizabeth Poli, Ashley Rezaeizadeh, Alex Schallmo, Jimmy Skuros, Ryan Stegink, Dan Widing, Meredith Wisniewski, and their teacher Dan States. I commend each and everyone of you for your hard work.

While in Washington, these students participated in a 3-day academic competition that simulated a congressional hearing in which they ''testified'' before a panel of judges. Students demonstrated their knowledge and understanding of constitutional principles and had opportunities to evaluate, take, and defend positions on relevant historical and contemporary issues.

I wish these students the best of luck in their future endeavors and applaud their outstanding achievement.●

COMMENORATING THE 40TH ANNIVERSARY OF MOORE'S LAW

● Mr. BINGAMAN. Mr. President, 40 years ago in the April 1965 issue of Electronics magazine, Gordon Moore, a young engineer, accurately forecast years of exponential improvements in computer chip performance. His abstract observations led to the most concrete results.

In his article entitled, ''Cramming More Components onto Integrated Circuits,'' Moore first articulated his thinking on the future of the integrated circuit. Later, he theorized that the number of transistors on a computer chip would continue to double in power for the same price every 18 months. This postulation became popularly known as Moore's Law, and it was a stunning challenge for scientists and engineers to discover new phenomena and ideas to maintain America's technological momentum.

Shortly thereafter, Gordon Moore helped found the Intel Corporation, which started as a pioneer in cutting-edge semiconductor technology and today remains at the frontier of innovation in integrated circuits. Since that time, all in accordance with Moore's Law, there have been more than three dozen such doublings in computer chip performance.

No wonder that we marvel how our world has changed more in the past century than in the previous hundred centuries. It took 10,000 years to get from the dawn of civilization to the airplane, but just 66 years to get from powered flight to the moon landing. In 1971, Intel could fit 2300 transistors on a silicon chip; later this year, Intel is expected to unveil a chip with nearly 2 billion transistors.

''It's kind of a Biblical thing,'' Leon Lederman, the Nobel laureate, once noted, ''Science begets technology. Once we have transistors, we can make computers. When we have computers, we can make much better transistors . . . which can make better computers.''

In the years ahead, networked supercomputers operating at speeds of over one thousand trillion operations per second will have implications as profound as the Industrial Revolution's spread of technology.

Such technological innovation, predicted by Moore's Law, has led to advances in virtually every industry and has fundamentally impacted the way we live, work, and play. Information technology has become commonplace in our schools, libraries, homes, offices, and businesses—and new information technology applications are still developing rapidly.

Information technology has had a mutually reinforcing relationship with our ''golden age'' of science and engineering. Advances in supercomputers, simulations, and networks are creating a new window into the natural world—making computing as valuable for theory and experimentation as a tool for scientific discovery.

It has accelerated the pace of scientific discovery across the board in all scientific disciplines. Information visualization and simulation technologies make it possible to learn, explore, and communicate more complex concepts. Supercomputer technology, for example, allows researchers to develop life-saving drugs more rapidly, better understand the functions of our genes once they have been sequenced, or more accurately predict tornadoes. Advanced information technology tools have emerged to support ''collaboratories''—geographically separate research units on different sides of the world functioning as a single laboratory.

Perhaps the most important area where information technology's impact has been greatest is in our economic sector. It is commonly credited as being a key factor in our economy's structural shift from manufacturing to services, altering the nature of our work and the needs of our workforce.

The widespread diffusion of information technology throughout the economy, and its integration into new business models producing more efficient production methods added a full percentage point to the Nation's productivity after 1995. Economists note that productivity is the most important driver of long-term economic growth, and information technology increases economic output more than any other type of capital investment.

Beginning in 1995, U.S. productivity—spurred by information technology applications—accelerated to rates of growth not seen in two decades. The difference between 1.5 percent and 2.5 percent productivity growth is the difference between the standard of living doubling in one generation or in two generations. It has enormous implications.

The impact of Moore's Law and the resulting U.S. technology industry has also had enormous implications for my home State of New Mexico.

We are proud to be part of the drive within the technology industry to keep pace with Moore's Law. Small and large businesses alike which are part of our local technology industry have led to steadily increasing economic growth and development. Intel Corporation, with Gordon Moore at its helm, has become a major contributor to our State's economy and is an example of the impact that U.S. technological leadership has at a local level.

Overall, Intel has a significant economic and fiscal impact on our State and region. Intel came to Rio Rancho, just outside of Albuquerque, in 1980 and has grown to become our State's largest private manufacturer. Intel New Mexico employs more than 5,000 people and pays some of the highest wages. In 2001–2002, Intel spent $2 billion on new facilities and upgrades to other facilities.

Moreover, Intel's continued growth has brought other benefits to our communities as well, particularly in the area of education. Intel made a $2 million donation to the National Hispanic Cultural Center to integrate the latest technology tools in support of the Intel Center for Technology and the Visual Arts. Intel's ''Teach to the Future'' has provided technology training for more than 6,000 New Mexico teachers to help them incorporate technology into their curricula and help prepare our children for the jobs of the 21st century. Intel has also launched two Computer Clubhouses, technology and mentoring programs for youth in Albuquerque and Santa Fe.

While Moore's Law has meant so much to my State and our Nation, we need to acknowledge that engineering, computer chips, and information technology are about more than our material wealth or our simple acquisition of knowledge. Basically, they are about our dreams.

We have always been a Nation that is defined by the great goals we set, the great dreams we dream. We have always been a restless, questing people—and with willpower, resources, and great national effort, we have always reached our horizons and then set out for new ones.

So on this 40th anniversary of Moore's Law, I want to salute the extraordinarily important contributions of Gordon Moore, the Intel Corporation, and the many other scientists and engineers who have helped us imagine and invent the future.

In large measure, their contributions have made this new century before us so full of promise—molded by science, shaped by technology, and powered by knowledge. These potent transforming forces can give us lives richer and fuller than we have ever known before.●

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 11:15 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1023. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles ''Pete'' Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 86. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 135. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

H. Con. Res. 136. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution to correct the enrollment of H.R. 1268.

ENROLLED BILL SIGNED

At 11:26 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1023. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles ''Pete'' Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

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–2074. A communication from the Principal Deputy Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Hamilton Wetland Restoration Project; to the Committee on Environment and Public Works.

EC–2075. A communication from the Principal Deputy Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Silver Strand shoreline project at Imperial Beach, California; to the Committee on Environment and Public Works.

EC–2076. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled ''Report to Congress on Abnormal Occurrences, Fiscal Year 2004''; to the Committee on Environment and Public Works.

EC–2077. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standard; for some Counties in the States of Kansas and Missouri'' (FRL NO. 7906–5) received on May 3, 2005; to the Committee on Environment and Public Works.

EC–2078. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa'' (FRL NO. 7906–9) received on May 3, 2005; to the Committee on Environment and Public Works.

EC–2079. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri'' (FRL NO. 7906–7) received on May 3, 2005; to the Committee on Environment and Public Works.

EC–2080. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Michigan: Oxides of Nitrogen'' (FRL NO. 7904–4) received on May 3, 2005; to the Committee on Environment and Public Works.

EC–2081. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment for the Ozone and Carbon Monoxide National Ambient Air Quality Standards in Washoe County, Nevada'' (FRL NO. 7907–3) received on May 3, 2005; to the Committee on Environment and Public Works.

EC–2082. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; 1-Hour Ozone Attainment Plans, Rate-of-Progress Plans, Contingency Measures, Transportation Control Measures, VMT Offset, and 1990 Base Year Inventory'' (FRL NO. 7910–3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2083. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for AIM Coatings'' (FRL NO. 7909–8) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2084. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan'' (FRL NO. 7909–3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2085. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Non-Regulatory Voluntary Emission Reduction Program Measures'' (FRL NO. 7909–9) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2086. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from AIM Coatings'' (FRL NO. 7910–2) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2087. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington, D.C. 1-Hour Ozone Attainment Demonstration Plans'' (FRL NO. 7910–4) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2088. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Washington; Spokane Carbon Monoxide Attainment Plan'' (FRL NO. 7906–3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2089. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emissions Standards for AIM Coatings'' (FRL NO. 7910–1) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2090. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Transportation Conformity Rule Amendments for the New $PM_{2.5}$ National Ambient Air Quality Standard: $PM_{2.5}$ Precursors'' (FRL NO. 7908–3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC–2091. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the Program Acquisitions Unit Cost (PAUC) for the Chemical Demilitarization (CHEM DEMIL) Program; to the Committee on Armed Services.

EC–2092. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law the quarterly report entitled ''Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account''; to the Committee on Armed Services.

EC–2093. 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–2094. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense transmitting, pursuant to law, a report relative to the Department's implementation of postal system improvements; to the Committee on Armed Services.

EC–2095. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense transmitting, pursuant to law, a report relative to the Chemical Demilitarization (Chem Demil)-Chemical Materials Agency (CMA) and Chem Demil-CMA Newport major defense acquisition programs; to the Committee on Armed Services.

EC–2096. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, the Selected Acquisition Reports (SARs) for the quarter ending December 31, 2004; to the Committee on Armed Services.

EC–2097. A communication from the Principal Deputy, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a report on the Department's status and results of the ''National Call to Service'' program for Fiscal Year 2004; to the Committee on Armed Services.

EC–2098. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from October 1, 2004 through March 31, 2005; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 285. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program (Rept. No. 109–66).

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 Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. DURBIN, Ms. SNOWE, Mr. LEAHY, Mr. FEINGOLD, and Mrs. LINCOLN):

S. 994. A bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 995. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to designate the La Entrada al Pacifico Corridor in the State of Texas as a high priority corridor on the National Highway System; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself, Mr. ENZI, and Mr. THUNE):

S. 996. A bill to improve the Veterans Beneficiary Travel Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BURNS:

S. 997. A bill to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge Forest, Montana, to Jefferson County, Montana, for use as a cemetery; to the Committee on Energy and Natural Resources.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 998. A bill to include the State of Idaho as an affected area under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 999. A bill to provide for a public response to the public health crisis of pain, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1000. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1001. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1002. A bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 1003. A bill to amend the Act of December 22, 1974, and for other purposes; to the Committee on Indian Affairs.

By Mr. ALLEN (for himself, Mr. SMITH, and Mr. ENSIGN):

S. 1004. A bill to provide the Federal Trade Commission with the resources necessary to protect users of the Internet from the unfair and deceptive acts and practices associated with spyware, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 1005. A bill to amend the Richard B. Russell National School Lunch Act to permit certain summer food pilot programs to be carried out in all States and by all service institutions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KYL (for himself, Mrs. HUTCHISON, and Mr. CORNYN):

S. 1006. A bill to reimburse States and local governments for indirect costs relating to the incarceration of illegal criminal aliens; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. REID, and Mr. JEFFORDS):

S. 1007. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 98

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

At the request of Mr. ALLARD, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Maine (Ms. SNOWE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 98, supra.

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 147

At the request of Mr. AKAKA, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 241

At the request of Ms. SNOWE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors 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.

S. 283

At the request of Mrs. DOLE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 283, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the transportation of food for charitable purposes.

S. 329

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 329, a bill to amend title 11, United States Code, to increase the amount of unsecured claims for salaries and wages given priority in bankruptcy, to provide for cash payments to retirees to compensate for lost health insurance benefits resulting from the bankruptcy of their former employer, and for other purposes.

S. 390

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Illinois (Mr. DURBIN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 424

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 484

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 493

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 493, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 512

At the request of Mr. SANTORUM, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 513

At the request of Mr. GREGG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 604

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 695

At the request of Mr. COCHRAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 776

At the request of Mr. JOHNSON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 832

At the request of Mr. TALENT, his name was added as a cosponsor of S. 832, a bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of 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.

S. 894

At the request of Mr. ENZI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 894, a bill to allow travel between the United States and Cuba.

S. 895

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 895, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

S. 918

At the request of Mr. OBAMA, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Indiana (Mr. LUGAR) were withdrawn as cosponsors of S. 918, a bill to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

S. 991

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official

depredations 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.

S. RES. 124

At the request of Mr. HAGEL, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 124, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

AMENDMENT NO. 595

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Colorado (Mr. SALAZAR), the Senator from Iowa (Mr. HARKIN), the Senator from Indiana (Mr. BAYH), the Senator from Illinois (Mr. DURBIN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Missouri (Mr. TALENT) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 595 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 609

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 609 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. DURBIN, Ms. SNOWE, Mr. LEAHY, Mr. FEINGOLD, and Mrs. LINCOLN):

S. 994. A bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today along with Senators HUTCHISON, DURBIN, SNOWE, LEAHY and FEINGOLD to reintroduce the ''Family Abduction Prevention Act of 2005,'' a bill to help the thousands of children who are abducted by a family member each year. We introduced this legislation last Congress, but it is just as needed today as it was then.

Family abductions are the most common form of abduction, yet they receive little attention, and law enforcement often doesn't treat them as the serious crimes that they are.

The Family Abduction Prevention Act of 2005 would provide grants to States for costs associated with family abduction prevention. Specifically, it would assist States with: costs associated with the extradition of individuals suspected of committing the crime of family abduction; costs borne by State and local law enforcement agencies to investigate cases of missing children; training for local and State law enforcement agencies in responding to family abductions; outreach and media campaigns to educate parents on the dangers of family abductions; and assistance to public schools to help with costs associated with ''flagging'' school records.

Each year, over 200,000 children—78 percent of all abductions in the United States—are kidnapped by a family member, usually a non-custodial parent.

More than half of abducting parents have a history of domestic violence, substance abuse, or a criminal record.

Most State and local law enforcement agencies do not treat these abductions as serious crimes. Approximately 70 percent of law enforcement agencies do not have written guidelines on responding to family abduction and many are not informed about the Federal laws available to help in the search and recovery of an abducted child.

Many people believe that a child is not in grave danger if the abductor is a family member. Unfortunately, this is not true, and this assumption can endanger a child's life. Research shows that the most common motive in family abduction cases is revenge against the other parent—not love for the child.

The effects of family abduction on children are very traumatic. Abducted children suffer from severe separation anxiety. To break emotional ties with the left-behind parent, some family abductors will coach a child into falsely disclosing abuse by the other parent to perpetuate their control during or after abduction. The child is often told that the other parent is dead or did not really love them.

As the child adapts to a fugitive's lifestyle, deception becomes a part of life. The child is taught to fear those that one would normally trust, such as police, doctors, teachers and counselors. Even after recovery, the child often has a difficult time growing into adulthood.

Let me give an illustrative example about a girl named Rebekah. On Takeroot.org, a website devoted to victims of family abductions, Rebekah told the story of when her mother kidnapped her.

Her mother was diagnosed as manic and was verbally abusive to her children and husband. Rebekah's father was awarded full custody of her and her brothers. However, one weekend, when Rebekah was 4-years-old, her mother took her to Texas.

Her mother had all Rebekah's moles and distinguishing marks removed from her body and she had fake birth certificates made for Rebekah and herself. As Rebekah grew up, she was told that her father didn't love her and that her siblings didn't want to see her. When the FBI finally found Rebekah, she didn't remember her father and felt very alone.

In addition, in many family abduction cases, children are given new identities at an age when they are still developing a sense of who they are. In extreme cases, the child's sexual identity is covered up to avoid detection.

Abducting parents often deprive their children of education and much-needed medical attention to avoid the risk of being tracked via school or medical records.

In some cases, the abducting parent leaves the child with strangers at an underground ''safe house'' where health, safety, and other basic needs are extremely compromised.

For example, in Lafayette, CA, two girls were abducted by their mother and moved from house to house under the control of a convicted child molester. Kelli Nunez absconded with her daughters, 6-year-old Anna and 4-year-old Emily in violation of court custody orders. Nunez drove her daughters cross-country, and then returned by plane to San Francisco, where she handed the children to someone holding a coded sign at the airport.

The person holding the sign belonged to an underground vigilante group called the California Family Law Center led by Florencio Maning, a convicted child molester. For six months, Maning orchestrated the concealment of the Nunez girls with help from other people. Luckily, police were able to track down the girls, and they were successfully reunited with their father.

California has been the Nation's leader in fighting family abduction. In my State, we have a system that places the responsibility for the investigation and resolution of family abduction cases with the County District Attorney's Office. Each California County District Attorney's Office has an investigative unit that is focused on family abduction cases. These investigators only handle family abduction cases and become experts in the process.

However, most States lack the training and resources to effectively recover children who are kidnapped by a family member. According to a study conducted by Plass, Finkelhor and Hotaling, 62 percent of parents surveyed said they were ''somewhat'' or ''very'' dissatisfied with police handling of their family abduction cases.

The ''Family Abduction Prevention Act of 2005'' would be an important first step in addressing this serious issue.

I urge my colleagues to quickly act on this important legislation.

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. 994

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 Abduction Prevention Act of 2005''.

SEC. 2. FINDINGS.

Congress findings that—

(1) each year more than 203,000 children in the United States (approximately 78 percent of all abducted children) are abducted by a family member, usually a parent;

(2) more than half of the parents who abduct their children have a history of alcohol or substance abuse, a criminal record, or a history of violence;

(3) the most common motive for family abduction is revenge against the other parent, not protecting the child's safety;

(4) children who are abducted by family members suffer emotional, psychological, and often physical abuse at the hands of their abductors;

(5) children who are victims of family abductions are forced to leave behind family, friends, their homes, their neighborhoods, their schools, and all that is familiar to them;

(6) children who are victims of family abductions are often told that the parent who did not abduct the child has died, does not love them, or will harm them;

(7) children who are abducted by their parents or other family members are sometimes forced to live in fear of discovery and may be compelled to conceal their true identity, including their real names, family histories, and even their gender;

(8) children who are victims of family abductions are often denied the opportunity to attend school or to receive health and dental care;

(9) child psychologists and law enforcement authorities now classify family abduction as a form of child abuse;

(10) approximately 70 percent of local law enforcement agencies do not have written guidelines for what to do in the event of a family abduction or how to facilitate the recovery of an abducted child;

(11) the first few hours of a family abduction are crucial to recovering an abducted child, and valuable hours are lost when law enforcement is not prepared to employ the most effective techniques to locate and recover abducted children;

(12) when parents who may be inclined to abduct their own children receive counseling and education on the harm suffered by children under these circumstances, the incidence of family abductions is greatly reduced; and

(13) where practiced, the flagging of school records has proven to be an effective tool in assisting law enforcement authorities find abducted children.

SEC. 3. DEFINITIONS.

In this Act:

(1) FAMILY ABDUCTION.—The term ''family abduction'' means the taking, keeping, or concealing of a child or children by a parent, other family member, or person acting on behalf of the parent or family member, that prevents another individual from exercising lawful custody or visitation rights.

(2) FLAGGING.—The term ''flagging'' means the process of notifying law enforcement authorities of the name and address of any person requesting the school records of an abducted child.

(3) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any territory or possession of the United States, and any Indian tribe.

SEC. 4. GRANTS TO STATES.

(a) MATCHING GRANTS.—The Attorney General shall make grants to States for projects involving—

(1) the extradition of individuals suspected of committing a family abduction;

(2) the investigation by State and local law enforcement agencies of family abduction cases;

(3) the training of State and local law enforcement agencies in responding to family abductions and recovering abducted children, including the development of written guidelines and technical assistance;

(4) outreach and media campaigns to educate parents on the dangers of family abductions; and

(5) the flagging of school records.

(b) MATCHING REQUIREMENT.—Not less than 50 percent of the cost of a project for which a grant is made under this section shall be provided by non-Federal sources.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there are authorized to be appropriated to the Attorney General $500,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 and 2008.

Mr. BURNS (for himself, Mr. ENZI, and Mr. THUNE):

S. 996. A bill to improve the Veterans Beneficiary Travel Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

Mr. BURNS. Mr. President, today, I join my colleagues, Senator ENZI and Senator THUNE in introducing ''The Veterans Road to Health Care Act of 2005.''

Montana veterans are often forced to travel hundreds of miles throughout our great State to receive the healthcare they need. Whether traveling to the only Veterans' Administration (VA) hospital located just outside of Helena at Fort Harrison, or to one of the eight Community Based Outpatient Clinics, CBOCs, the distances traveled by our veterans is great. We have a lot of dirt between light bulbs in Montana. This distance, combined with the increase in gas prices and the cost of lodging for veterans and their families adds up quickly. Many of these folks do not have any other option for their health care, and I think that anything which can be done to help those who are travel eligible would be appreciated.

The Veterans Road to Health Care Act of 2005 would help ease this burden by raising the travel reimbursement rate for veterans who must travel to VA facilities for treatment. The current reimbursement rate of 11 cents per mile would be increased to the Federal rate of 40.5 cents per mile. It seems only fair that veterans who have sacrificed so much for this country receive the same compensation as Federal employees.

My bill would also allow payment under the Travel Beneficiary Program to veterans who cannot receive adequate care at their VA facility and are thereby forced to travel to another care center for specialized treatment. This referral to another facility for additional treatment often increases the costs for veterans from rural States like Montana, who must make another trip and sometimes travel even longer distances, for medical assistance.

It is important that veterans in rural areas receive fair compensation, as they travel to obtain healthcare. I want to acknowledge Senators ENZI and THUNE for joining me in support of this bill. Their work on this and all other veterans' issues is to be commended, and I look forward to working with them and my other Senate colleagues to pass this important piece of legislation. We need to do this for veterans in Montana and other rural areas across the country.

Mr. ENZI. Mr. President, I rise today in strong support of the Veterans Road to Health Care Act of 2005 that I introduced with my colleagues Senator BURNS and Senator THUNE. This legislation would raise the travel reimbursement rate for veterans who must travel to Department of Veterans Affairs' hospitals for treatment. The current reimbursement rate is 11 cents per mile. This bill would raise that figure to match the Federal employees travel reimbursement rate which is 40.5 cents per mile.

The average price for gas in Wyoming right now is $2.20 per gallon. The current rate of 11 cents per mile barely makes a dent in the expenses incurred by veterans who have no choice but to travel by automobile for health care. I have received numerous letters from veterans in Wyoming describing how difficult it is to work into their budget the money necessary to travel between their hometown and the VA hospital. Being able to access health care is vital; veterans should not have to choose between driving to receive needed treatment and being able to afford other necessities.

In Wyoming, we have two VA Medical Centers, one in Cheyenne and one in Sheridan. Veterans have to travel to one of these facilities to be treated for health conditions and be covered by the health care plan that the government provides for them. This poses a serious problem in terms of travel expense, especially with the rise in gasoline prices. Some towns in Wyoming are over 300 miles away from the nearest VA facility. A veteran living in Riverton must drive 215 miles to the Sheridan facility or nearly 300 to the Cheyenne facility. This problem is then compounded when these facilities, which provide great service for our veterans, must refer the veterans to a larger hospital in Salt Lake City or Denver for additional treatment or procedures.

This bill addresses the health care of veterans who have special needs. It would allow veterans who have been referred to a special care center by their VA physician to be reimbursed under

the Travel Beneficiary Program for their travel to the specialized facility. This applies only to those veterans who cannot receive adequate care at their VA facility.

This legislation is important to all veterans, but it is especially significant to those veterans who live in rural states, like my home State of Wyoming. Rural States are less populated; there is greater distance between towns and far fewer options for transportation. Wyoming has miles and miles of miles and miles. Cars are the main mode of transportation and many times the only option.

It is our duty to compensate our servicemen and women for the sacrifices that they made defending the freedoms of this country. With our current recruitment and retention problems in the military, it is our Nation's responsibility to give veterans the kind of access to healthcare they have earned through their service to our country. The rising cost of gasoline should not be a factor for veterans to ignore their health concerns because they cannot afford to travel to the nearest veterans' clinic. I strongly urge my colleagues to support this important bill.

By Mr. BURNS:

S. 997. A bill to direct the Secretary of Agriculture to convey land in the Beaverhead-Deerlodge Forest, Montana, to Jefferson County, Montana, for use as a cemetery; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, this bill conveys 3.4 acres on the Beaverhead-Deerlodge National Forest to Jefferson County, MT for continued use as a cemetery.

The Elkhorn Cemetery in Jefferson County has been used as a cemetery since the 1860's. Due to surveying errors and limited information when the National Forest boundaries were surveyed in the early 1900's, the cemetery was included as National Forest lands. The cemetery is still in use by local families who homesteaded and worked the mines in the area. However, Forest Service manual direction strongly discourages burials on National Forest lands, placing both the families and Forest Service in an awkward position.

It is clear the cemetery should not have been included as part of the National Forest. The County Commissioners and the local public strongly support the conveyance.

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. 997

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Montana Cemetery Act of 2005''.

SEC. 2. CONVEYANCE TO JEFFERSON COUNTY, MONTANA.

(a) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act and subject to valid existing rights, the Secretary of Agriculture (referred to in this Act as the ''Secretary''), acting through the Chief of the Forest Service, shall convey to Jefferson County, Montana, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) known as the Elkhorn Cemetery, which consists of 10 acres in Jefferson County located in SW1/4 Sec. 14, T. 6 N., R. 3 W.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 998. A bill to include the State of Idaho as an affected area under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the committee on the Judiciary.

Mr. CRAPO. Mr. President, in the 1950s and 1960s, this country was in the midst of a cold war and arms race, a race to perfect the hydrogen bomb. To win the race, nuclear weapons technology was developed using above ground testing in Idaho's neighbor to the south, Nevada. During these tests, Idahoans recount going outside in the evenings to look at the beautiful sunsets caused by the testing. Unfortunately and unbeknown to them, these skies were filled with dangerous radiation that very much elevated their exposure and subsequent risk of developing cancer.

I will not debate whether government authorities adequately knew the extent of the long-term dangers to radiation exposure. However, after a long and protracted discussion in this very chamber, Congress did recognize that what had occurred during this time of nuclear testing and rightly came forward providing for compensation through the Radiation Exposure Compensation Act of 1990 (RECA). This bill said that if you lived in certain counties in certain States during a certain period of time and had specified diseases, you were eligible for compensation. It is now time to review that program and make it work for everyone who may have become ill because of radiation fall-out exposure.

The criteria established in the Act were driven by limited scientific knowledge and political expediency. This was recognized in 1999, when a group of Senators, led by Senator HATCH, amended RECA to include additional counties in Arizona. During the floor debate at the time, Senator HATCH said, ''Through advances in science, we now know so much more about the effects of radiation than we did in the late 1950s and 1960s. Our current state of scientific knowledge allows us to pinpoint with more accuracy which diseases are reasonably believed to be related to radiation exposure, and that is what necessitated the legislation we are considering today.''

But the truth is even more encompassing than a few more counties. According to a report from the National Academies of Sciences, a report commissioned by Congress, radiation fallout didn't know any arbitrary geographic boundaries. It didn't stop because it crossed a State or county line. The NAS report, released last month, clearly demonstrated that we continue to be wide of the mark in who is eligible for compensation and that is why I am introducing legislation today to bring RECA back on course. Information used to establish who would be eligible for compensation failed to recognize that four counties in Idaho ranked in the top five in having the highest per capita thyroid dosage of radiation in the nation, more than any county currently recognized by RECA for eligibility. This clear inequity must be rectified; Idaho has a documented history of high cancer rates in people who lived in these areas during testing.

At this time I would like to thank people like Sheri Garmon, Kathy Skippen, Tona Henderson, and so many others who have spent time and energy on this issue. Some like Sheri are fighting multiple cancers and yet have taken the time to pursue their belief that they to deserved to be eligible for the RECA program. The NAS report recognizes that the RECA program needs revamping, but Idahoans deserve equal treatment with those in Utah, Arizona, and Nevada now. They should not have to wait while Congress comes up with a better way to administer this program. That is why I am introducing legislation today that will extend the present program to cover the full State of Idaho. And I am encouraging my colleagues to work with me on making the entire RECA program more comprehensive for the future.

It is the right thing to do.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 999. A bill to provide for a public response to the public health crisis of pain, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1000. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN

S. 1001. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVII

of the Social Security Act, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, several weeks ago, I outlined what I believed this country needs to do in order to address the true issues related to how we care for those who are dying. Today, I am introducing 3 bills to improve access to pain management, increase the number of providers trained to care for those with life-threatening illness, and improve the Medicare hospice benefit.

Our medical system is geared towards curing patients, and gives short shrift to those we cannot cure. Modern advances in technology allow us to live longer, but that also means that many of us will live longer with chronic diseases including pain.

The Conquering Pain Act will help those patients living and dying in pain, support their families and assist providers in getting information and guidance. This legislation will provide an opportunity for the country to develop and test different ways of providing pain management to patients 24 hours a day, seven days a week. It would create and fund regional networks to assist patients so they would not have to wait until normal business hours to get relief and help providers receive timely information and guidance as they treat difficult cases. This bill would create a website and require access to it in health care settings so families, patients and providers can have instant information. In addition, the bill requires several studies so we can better understand the other roadblocks for patients seeking pain management. These roadblocks include the lack of health insurance coverage for pain management and the interaction of the enforcement of laws concerning controlled substances and the delivery of appropriate pain management. I am pleased that my colleague from Oregon is cosponsoring the Conquering Pain Act.

Another aspect of our health care system that needs strengthening, is in assuring that we have providers who know how to provide support and comfort care to the dying. The Palliative Care Training Act will increase the number of providers trained in palliative care. Palliative care is an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illness. It does so through the prevention and relief of suffering by early identification, assessment and treatment of pain and other problems. Palliative care affirms life and regards dying as a normal process. It neither hastens nor postpones death and is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and offers a support system to help patients live as actively as possible until death.

My legislation provides grants to individuals with appointments as junior faculty at accredited medical schools so they will teach other providers palliative care. This is modeled after existing awards for the training of other specialties. When it comes down to it, assuring there is faculty in schools to teach this area of medicine, is an inexpensive way of strengthening the health care system in providing this needed care. I am pleased to note that when the National Hospice and Palliative Care Association recently testified before the Senate Health, Education and Labor Committee, they identified this legislation as addressing an important need.

As we look at how to better care for those at the end of life, Medicare's hospice benefit bears examination. When the benefit was added to Medicare, it was hailed as a cost effective benefit that would assist many. In truth, few Americans know what hospice really is and the benefits it can provide. Too often seniors are advised of the benefits too late to get the full effect of the medical, social and spiritual support this benefit can provide. Part of the reason for this is Medicare requires the patient to choose between continuing to seek ''curative'' care or hospice and palliative care. This means that literally the patient must choose between the hope of a cure and accepting that they are dying. Not many of us would want to give up seeking a cure or want to give up hope. However, that is what the Medicare program requires now. The Medicare Hospice Demonstration Act tests the idea that patients would not have to give up seeking ''curative'' care, to get hospice. It is my belief that as people experience what hospice can do for them and for their families, they will find they can accept living the end of their lives with hospice and palliative care instead of seeking less effective care that will not cure them or enhance the quality of their life.

It the U.S. Senate is going to examine end of life issues, we should not just look at legal issues. I believe these proposals are essential elements of the health care system that need to be supported and strengthened.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 999

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 ''Conquering Pain Act of 2005''.

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

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Definitions.
TITLE I—EMERGENCY RESPONSE TO THE PUBLIC HEALTH CRISIS OF PAIN
Sec. 101. Guidelines for the treatment of pain.
Sec. 102. Patient expectations to have pain and symptom management.
Sec. 103. Quality improvement projects.
Sec. 104. Pain coverage quality evaluation and information.
Sec. 105. Surgeon General's report.
TITLE II—DEVELOPING COMMUNITY RESOURCES
Sec. 201. Family support networks in pain and symptom management.
TITLE III—REIMBURSEMENT BARRIERS
Sec. 301. Reimbursement barriers report.
Sec. 302. Insurance coverage of pain and symptom management.
TITLE IV—IMPROVING FEDERAL COORDINATION OF POLICY, RESEARCH, AND INFORMATION
Sec. 401. Advisory Committee on Pain and Symptom Management.
Sec. 402. Institutes of Medicine report on controlled substance regulation and the use of pain medications.
Sec. 403. Conference on pain research and care.
TITLE V—DEMONSTRATION PROJECTS
Sec. 501. Provider performance standards for improvement in pain and symptom management.
Sec. 502. End of life care demonstration projects.

SEC. 2. FINDINGS.

Congress finds that—

(1) pain is often left untreated or undertreated especially among older patients, African Americans, Hispanics and other minorities, and children;

(2) chronic pain is a public health problem affecting at least 50,000,000 Americans through some form of persisting or recurring symptom;

(3) 40 to 50 percent of patients experience moderate to severe pain at least half the time in their last days of life;

(4) 70 to 80 percent of cancer patients experience significant pain during their illness;

(5) one in 7 nursing home residents experience persistent pain that may diminish their quality of life;

(6) despite the best intentions of physicians, nurses, pharmacists, and other health care professionals, pain is often under-treated because of the inadequate training of clinicians in pain management;

(7) despite the best intentions of physicians, nurses, pharmacists, mental health professionals, and other health care professionals, pain and symptom management is often suboptimal because the health care system has focused on cure of disease rather than the management of a patient's pain and other symptoms;

(8) the technology and scientific basis to adequately manage most pain is known;

(9) pain should be considered the fifth vital sign; and

(10) coordination of Federal efforts is needed to improve access to high quality effective pain and symptom management in order to assure the needs of chronic pain patients and those who are terminally ill are met.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHRONIC PAIN.—The term ''chronic pain'' means a pain state that is persistent and in which the cause of the pain cannot be removed or otherwise alleviated. Such term includes pain that may be associated with long-term incurable or intractable medical conditions or disease.

(2) END OF LIFE CARE.—The term ''end of life care'' means a range of services, including hospice care, provided to a patient, in the final stages of his or her life, who is suffering from 1 or more conditions for which treatment toward a cure or reasonable improvement is not possible, and whose focus of care is palliative rather than curative.

(3) FAMILY SUPPORT NETWORK.—The term ''family support network'' means an association of 2 or more individuals or entities in a collaborative effort to develop multi-disciplinary integrated patient care approaches that involve medical staff and ancillary services to provide support to chronic pain patients and patients at the end of life and their caregivers across a broad range of settings in which pain management might be delivered.

(4) HOSPICE.—The term ''hospice care'' has the meaning given such term in section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).

(5) MEDICATION THERAPY MANAGEMENT SERVICES.—The term ''medication therapy management services'' means consultations with a physician or other health care professional (including a pharmacist) who is practicing within the scope of the professional's license, concerning a patient which results in—

(A) a change in the drug regimen of the patient to avoid an adverse drug interaction with another drug or disease state;

(B) a change in inappropriate drug dosage or dosage form with respect to the patient;

(C) discontinuing an unnecessary or harmful medication with respect to the patient;

(D) an initiation of medication therapy for a medical condition of the patient;

(E) consultation with the patient or a caregiver in a manner that results in a significant improvement in drug regimen compliance; or

(F) patient and caregiver understanding of the appropriate use and adherence to medication therapy.

(6) PAIN AND SYMPTOM MANAGEMENT.—The term ''pain and symptom management'' means services provided to relieve physical or psychological pain or suffering, including any 1 or more of the following physical complaints—

(A) weakness and fatigue;

(B) shortness of breath;

(C) nausea and vomiting;

(D) diminished appetite;

(E) wasting of muscle mass;

(F) difficulty in swallowing;

(G) bowel problems;

(H) dry mouth;

(I) failure of lymph drainage resulting in tissue swelling;

(J) confusion;

(K) dementia;

(L) delirium;

(M) anxiety;

(N) depression; and

(O) other related symptoms

(7) PALLIATIVE CARE.—The term ''palliative care'' means the total care of patients whose disease is not responsive to curative treatment, the goal of which is to provide the best quality of life for such patients and their families. Such care—

(A) may include the control of pain and of other symptoms, including psychological, social and spiritual problems;

(B) affirms life and regards dying as a normal process;

(C) provides relief from pain and other distressing symptoms;

(D) integrates the psychological and spiritual aspects of patient care;

(E) offers a support system to help patients live as actively as possible until death; and

(F) offers a support system to help the family cope during the patient's illness and in their own bereavement.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

TITLE I—EMERGENCY RESPONSE TO THE PUBLIC HEALTH CRISIS OF PAIN

SEC. 101. GUIDELINES FOR THE TREATMENT OF PAIN.

(a) DEVELOPMENT OF WEBSITE.—Not later than 2 months after the date of enactment of this Act, the Secretary, acting through the Agency for Healthcare Research and Quality, shall develop and maintain an Internet website to provide information to individuals, health care practitioners, and health facilities concerning evidence-based practice guidelines developed for the treatment of physical and psychological pain. Websites in existence on such date may be used if such websites meet the requirements of this section.

(b) REQUIREMENTS.—The website established under subsection (a) shall—

(1) be designed to be quickly referenced by health care practitioners; and

(2) provide for the updating of guidelines as scientific data warrants.

(c) PROVIDER ACCESS TO GUIDELINES.—

(1) IN GENERAL.—In establishing the website under subsection (a), the Secretary shall ensure that health care facilities have made the website known to health care practitioners and that the website is easily available to all health care personnel providing care or services at a health care facility.

(2) USE OF CERTAIN EQUIPMENT.—In making the information described in paragraph (1) available to health care personnel, the facility involved shall—

(A) ensure that such personnel have access to the website through the computer equipment of the facility;

(B) carry out efforts to inform personnel at the facility of the location of such equipment; and

(C) ensure that patients, caregivers, and support groups are provided with access to the website.

(3) RURAL AREAS.—

(A) IN GENERAL.—A health care facility, particularly a facility located in a rural or underserved area, without access to the Internet shall provide an alternative means of providing practice guideline information to all health care personnel.

(B) ALTERNATIVE MEANS.—The Secretary shall determine appropriate alternative means by which a health care facility may make available practice guideline information on a 24-hour basis, 7 days a week if the facility does not have Internet access. The criteria for adopting such alternative means should be clear in permitting facilities to develop alternative means without placing a significant financial burden on the facility and in permitting flexibility for facilities to develop alternative means of making guidelines available. Such criteria shall be published in the Federal Register.

SEC. 102. PATIENT EXPECTATIONS TO HAVE PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The administrator of each of the programs described in subsection (b) shall ensure that, as part of any informational materials provided to individuals under such programs, such materials shall include information, where relevant, to inform such individuals that they should expect to have their pain assessed and should expect to be provided with effective pain and symptom relief, when receiving benefits under such program.

(b) PROGRAMS.—The programs described in this subsection shall include—

(1) the medicare and medicaid programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1935 et seq., 1936 et seq.);

(2) programs carried out through the Public Health Service;

(3) programs carried out through the Indian Health Service;

(4) programs carried out through health centers under section 330 of the Public Health Service Act (42 U.S.C. 254b);

(5) the Federal Employee Health Benefits Program under title 5, United States Code;

(6) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) as defined in section 1073(4) of title 10, United States Code; and

(7) other programs administered by the Secretary.

SEC. 103. QUALITY IMPROVEMENT EDUCATION PROJECTS.

The Secretary shall provide funds for the implementation of special education projects, in as many States as is practicable, to be carried out by peer review organizations of the type described in section 1152 of the Social Security Act (42 U.S.C. 1320c–1) to improve the quality of pain and symptom management. Such projects shall place an emphasis on improving pain and symptom management at the end of life, and may also include efforts to increase the quality of services delivered to chronic pain patients and the chronically ill for whom pain may be a significant symptom.

SEC. 104. PAIN COVERAGE QUALITY EVALUATION AND INFORMATION.

(a) IN GENERAL.—Section 1851(d)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1395w–21(d)(4)) is amended—

(1) in subparagraph (A), by adding at the end the following:

''(ix) The organization's coverage of pain and symptom management.''; and

(2) in subparagraph (D)—

(A) in clause (iii), by striking ''and'' at the end;

(B) in clause (iv), by striking the period and inserting '', and''; and

(C) by adding at the end the following:

''(v) not later than 2 years after the date of enactment of this clause, an evaluation (which may be made part of any other relevant report of quality evaluation that the plan is required to prepare) for the plan (updated annually) that indicates the performance of the plan with respect to access to, and quality of, pain and symptom management, including such management as part of end of life care. Data shall be posted in a comparable manner for consumer use on www.medicare.gov.''.

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to information provided with respect to annual, coordinated election periods (as defined in section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395–21(e)(3)(B)) beginning after the date of enactment of this Act.

SEC. 105. SURGEON GENERAL'S REPORT.

Not later than October 1, 2006, the Surgeon General shall prepare and submit to the appropriate committees of Congress and the public, a report concerning the state of pain and symptom management in the United States. The report shall include—

(1) a description of the legal and regulatory barriers that may exist at the Federal and State levels to providing adequate pain and symptom management;

(2) an evaluation of provider competency in providing pain and symptom management;

(3) an identification of vulnerable populations, including children, advanced elderly, non-English speakers, and minorities, who may be likely to be underserved or may face barriers to access to pain management and recommendations to improve access to pain management for these populations;

(4) an identification of barriers that may exist in providing pain and symptom management in health care settings, including assisted living facilities;

(5) an identification of patient and family attitudes that may exist which pose barriers

in accessing pain and symptom management or in the proper use of pain medications;

(6) an evaluation of medical, nursing, and pharmacy school training and residency training for pain and symptom management;

(7) a review of continuing medical education programs in pain and symptom management; and

(8) a description of the use of and access to mental health services for patients in pain and patients at the end of life.

TITLE II—DEVELOPING COMMUNITY RESOURCES

SEC. 201. FAMILY SUPPORT NETWORKS IN PAIN AND SYMPTOM MANAGEMENT.

(a) ESTABLISHMENT.—The Secretary, acting through the Public Health Service, shall award grants for the establishment of 6 National Family Support Networks in Pain and Symptom Management (in this section referred to as the ''Networks'') to serve as national models for improving the access and quality of pain and symptom management to chronic pain patients (including chronically ill patients for whom pain is a significant symptom) and those individuals in need of pain and symptom management at the end of life and to provide assistance to family members and caregivers.

(b) ELIGIBILITY AND DISTRIBUTION.—

(1) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(A) be an academic facility or other entity that has demonstrated an effective approach to training health care providers including mental health professionals concerning pain and symptom management and palliative care services; and

(B) prepare and submit to the Secretary an application (to be peer reviewed by a committee established by the Secretary), at such time, in such manner, and containing such information as the Secretary may require.

(2) DISTRIBUTION.—In providing for the establishment of Networks under subsection (a), the Secretary shall ensure that—

(A) the geographic distribution of such Networks reflects a balance between rural and urban needs; and

(B) at least 3 Networks are established at academic facilities.

(c) ACTIVITIES OF NETWORKS.—A Network that is established under this section—

(1) shall provide for an integrated interdisciplinary approach, that includes psychological and counseling services, to the delivery of pain and symptom management;

(2) shall provide community leadership in establishing and expanding public access to appropriate pain care, including pain care at the end of life;

(3) shall provide assistance, through caregiver supportive services, that include counseling and education services;

(4) shall develop a research agenda to promote effective pain and symptom management for the broad spectrum of patients in need of access to such care that can be implemented by the Network;

(5) shall provide for coordination and linkages between clinical services in academic centers and surrounding communities to assist in the widespread dissemination of provider and patient information concerning how to access options for pain management;

(6) shall establish telemedicine links to provide education and for the delivery of services in pain and symptom management;

(7) shall develop effective means of providing assistance to providers and families for the management of a patient's pain 24 hours a day, 7 days a week; and

(8) may include complimentary medicine provided in conjunction with traditional medical services.

(d) PROVIDER PAIN AND SYMPTOM MANAGEMENT COMMUNICATIONS PROJECTS.—

(1) IN GENERAL.—Each Network shall establish a process to provide health care personnel with information 24 hours a day, 7 days a week, concerning pain and symptom management. Such process shall be designed to test the effectiveness of specific forms of communications with health care personnel so that such personnel may obtain information to ensure that all appropriate patients are provided with pain and symptom management.

(2) TERMINATION.—The requirement of paragraph (1) shall terminate with respect to a Network on the day that is 2 years after the date on which the Network has established the communications method.

(3) EVALUATION.—Not later than 60 days after the expiration of the 2-year period referred to in paragraph (2), a Network shall conduct an evaluation and prepare and submit to the Secretary a report concerning the costs of operation and whether the form of communication can be shown to have had a positive impact on the care of patients in chronic pain or on patients with pain at the end of life.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as limiting a Network from developing other ways in which to provide support to families and providers, 24 hours a day, 7 days a week.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $18,000,000 for fiscal years 2005 through 2007.

TITLE III—REIMBURSEMENT BARRIERS

SEC. 301. REIMBURSEMENT BARRIERS REPORT.

The Medicare Payment Advisory Commission (MedPac) established under section 1805 of the Social Security Act (42 U.S.C. 1396b–6) shall conduct a study, and prepare and submit to the appropriate committees of Congress a report, concerning—

(1) the manner in which medicare policies may pose barriers in providing pain and symptom management and palliative care services in different settings, including a focus on payment for nursing home and home health services;

(2) the identification of any financial barriers that may exist within the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.) that interfere with continuity of care and interdisciplinary care or supportive care for the broad range of chronic pain patients (including patients who are chronically ill for whom pain is a significant symptom), and for those who are terminally ill, and include the recommendations of the Commission on ways to eliminate those barriers that the Commission may identify;

(3) the reimbursement barriers that exist, if any, in providing pain and symptom management through hospice care, particularly in rural areas, and if barriers exist, recommendations concerning adjustments that would assist in assuring patient access to pain and symptom management through hospice care in rural areas;

(4) whether the medicare reimbursement system provides incentives to providers to delay informing terminally ill patients of the availability of hospice and palliative care; and

(5) the impact of providing payments for medication therapy management services in pain and symptom management and palliative care services.

SEC. 302. INSURANCE COVERAGE OF PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The General Accounting Office shall conduct a survey of public and private health insurance providers, including managed care entities, to determine whether the reimbursement policies of such insurers inhibit the access of chronic pain patients to pain and symptom management and pain and symptom management for those in need of end-of-life care (including patients who are chronically ill for whom pain is a significant symptom). The survey shall include a review of formularies for pain medication and the effect of such formularies on pain and symptom management.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning the survey conducted under subsection (a).

TITLE IV—IMPROVING FEDERAL COORDINATION OF POLICY, RESEARCH, AND INFORMATION

SEC. 401. ADVISORY COMMITTEE ON PAIN AND SYMPTOM MANAGEMENT.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee, to be known as the Advisory Committee on Pain and Symptom Management, to make recommendations to the Secretary concerning a coordinated Federal agenda on pain and symptom management.

(b) MEMBERSHIP.—The Advisory Committee established under subsection (a) shall be comprised of 11 individuals to be appointed by the Secretary, of which at least 1 member shall be a representative of—

(1) physicians (medical doctors or doctors of osteopathy) who treat chronic pain patients or the terminally ill;

(2) nurses who treat chronic pain patients or the terminally ill;

(3) pharmacists;

(4) hospice;

(5) pain researchers;

(6) patient advocates;

(7) caregivers; and

(8) mental health providers.

The members of the Committee shall designate 1 member to serve as the chairperson of the Committee.

(c) MEETINGS.—The Advisory Committee shall meet at the call of the chairperson of the Committee.

(d) AGENDA.—The agenda of the Advisory Committee established under subsection (a) shall include—

(1) the development of recommendations to create a coordinated Federal agenda on pain and symptom management;

(2) the development of proposals to ensure that pain is considered as the fifth vital sign for all patients;

(3) the identification of research needs in pain and symptom management, including gaps in pain and symptom management guidelines;

(4) the identification and dissemination of pain and symptom management practice guidelines, research information, and best practices;

(5) proposals for patient education concerning how to access pain and symptom management across health care settings;

(6) the manner in which to measure improvement in access to pain and symptom management and improvement in the delivery of care;

(7) the development of ongoing strategies to assure the aggressive use of pain medications, including opiods, regardless of health care setting; and

(8) the development of an ongoing mechanism to identify barriers or potential barriers to pain and symptom management created by Federal policies.

(e) RECOMMENDATION.—Not later than 2 years after the date of enactment of this Act, the Advisory Committee established under subsection (a) shall prepare and submit to the Secretary recommendations concerning a prioritization of the need for a

Federal agenda on pain and symptom management, and ways in which to better coordinate the activities of entities within the Department of Health and Human Services, and other Federal entities charged with the responsibility for the delivery of health care services or research on pain and symptom management with respect to pain management.

(f) CONSULTATION.—In carrying out this section, the Advisory Committee shall consult with all Federal agencies that are responsible for providing health care services or access to health services to determine the best means to ensure that all Federal activities are coordinated with respect to research and access to pain and symptom management.

(g) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE; OTHER PROVISIONS.—The following shall apply with respect to the Advisory Committee:

(1) The Committee shall receive necessary and appropriate administrative support, including appropriate funding, from the Department of Health and Human Services.

(2) The Committee shall hold open meetings and meet not less than 4 times per year.

(3) Members of the Committee shall not receive additional compensation for their service. Such members may receive reimbursement for appropriate and additional expenses that are incurred through service on the Committee which would not have incurred had they not been a member of the Committee.

(4) The requirements of Appendix 2 of title 5, United States Code.

SEC. 402. INSTITUTES OF MEDICINE REPORT ON CONTROLLED SUBSTANCE REGULATION AND THE USE OF PAIN MEDICATIONS.

(a) IN GENERAL.—The Secretary, acting through a contract entered into with the Institute of Medicine, shall review findings that have been developed through research conducted concerning—

(1) the effects of controlled substance regulation on patient access to effective care;

(2) factors, if any, that may contribute to the underuse of pain medications, including opiods;

(3) the identification of State legal and regulatory barriers, if any, that may impact patient access to medications used for pain and symptom management; and

(4) strategies to assure the aggressive use of pain medications, including opiods, regardless of health care setting.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the findings described in subsection (a).

SEC. 403. CONFERENCE ON PAIN RESEARCH AND CARE.

Not later than December 31, 2007, the Secretary, acting through the National Institutes of Health, shall convene a national conference to discuss the translation of pain research into the delivery of health services including mental health services to chronic pain patients and those needing end-of-life care. The Secretary shall use unobligated amounts appropriated for the Department of Health and Human Services to carry out this section.

TITLE V—DEMONSTRATION PROJECTS

SEC. 501. PROVIDER PERFORMANCE STANDARDS FOR IMPROVEMENT IN PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Health Resources Services Administration, shall award grants for the establishment of not less than 5 demonstration projects to determine effective methods to measure improvement in the skills, knowledge, and attitudes and beliefs of health care personnel in pain and symptom management as such skill, knowledge, and attitudes and beliefs apply to providing services to chronic pain patients and those patients requiring pain and symptom management at the end of life.

(b) EVALUATION.—Projects established under subsection (a) shall be evaluated to determine patient and caregiver knowledge and attitudes toward pain and symptom management.

(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

(d) TERMINATION.—A project established under subsection (a) shall terminate after the expiration of the 2-year period beginning on the date on which such project was established.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 502. END OF LIFE CARE DEMONSTRATION PROJECTS.

The Secretary, acting through the Health Resources and Services Administration, shall—

(1) not later than January 1, 2007, carry out not less than 5 demonstration and evaluation projects that implement care models for individuals at the end of life, at least one of which shall be developed to assist those individuals who are terminally ill and have no family or extended support, and each of which may be carried out in collaboration with domestic and international entities to gain and share knowledge and experience on end of life care;

(2) conduct 3 demonstration and evaluation activities concerning the education and training of clinicians in end of life care, and assist in the development and distribution of accurate educational materials on both pain and symptom management and end of life care;

(3) in awarding grants for the training of health professionals, give priority to awarding grants to entities that will provide training for health professionals in pain and symptom management and in end-of-life care at the undergraduate level;

(4) shall evaluate demonstration projects carried out under this section within the 5-year period beginning on the commencement of each such project; and

(5) develop a strategy and make recommendations to Congress to ensure that the United States health care system—

(A) has a meaningful, comprehensive, and effective approach to meet the needs of individuals and their caregivers as the patient approaches death; and

(B) integrates broader supportive services.

S. 1000

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 ''Palliative Care Training Act''.

SEC. 2. PALLIATIVE CARE TRAINING PROGRAM.

(a) IN GENERAL.—Section 753 of the Public Health Service Act (42 U.S.C. 294c) is amended by adding at the end the following:

''(d) HOSPICE AND PALLIATIVE CARE ACADEMIC CAREER AWARDS.—

''(1) IN GENERAL.—The Secretary shall establish a program to provide Hospice and Palliative Care Academic Career Awards to eligible individuals under this subsection.

''(2) ELIGIBILITY.—To be eligible to receive an Award under this subsection, an individual shall—

''(A) be board certified or board eligible in internal medicine, family practice, or pediatrics and their subspecialties including geriatrics, palliative medicine, or other specialties as determined by the Secretary;

''(B) have completed an approved fellowship program or demonstrated specialized experience in palliative medicine as determined by the Secretary; and

''(C) have a junior faculty appointment at an accredited (as determined by the Secretary) school of medicine (allopathic or osteopathic) and within an internship or residency program that is approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association.

''(3) AMOUNT AND TERM.—

''(A) AMOUNT.—The amount of an Award to an individual under this subsection shall be equal to $75,000 for fiscal year 2006, adjusted for subsequent fiscal years to reflect the increase in the Consumer Price Index.

''(B) TERM.—The term of any Award made under this subsection shall not exceed 5 years.

''(4) SERVICE REQUIREMENT.—An individual who receives an Award under this subsection shall provide training in hospice care and palliative medicine, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of such individual under the terms of the Award.

''(5) EFFECTIVE DATE.—This subsection shall take effect 90 days after the date of enactment of the Palliative Care Training Act.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 757 of the Public Health Service Act (42 U.S.C. 294g) is amended—

(1) in subsection (a), by striking ''through 2002'' and inserting ''through 2010'';

(2) in subsection (b)(1)(C), by striking ''$22,631,000'' and inserting ''$55,779,000''; and

(3) in subsection (c), by adding at the end the following:

''(3) GERIATRIC EDUCATION AND TRAINING.—Of the amount made available under subsection (b)(1)(C) for fiscal year 2006, the Secretary may obligate for awards under subsections (a), (b), and (c) of section 753 an amount not less than $31,805,000.''.

S. 1001

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 ''Medicare Hospice Demonstration Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Each year more than ⅓ of the people who die suffer from a chronic illness.

(2) Approximately ⅓ of Americans are unsure about whom to contact to get the best care during life's last stages.

(3) Americans want a team of professionals to care for the patient at the end of life.

(4) Americans want emotional and spiritual support for the patient and family.

(5) Ninety percent of Americans do not realize that hospice care is a benefit provided under the medicare program under title XVIII of the Social Security Act.

(6) Data of the Centers for Medicare & Medicaid Services show that beneficiaries were enrolled in hospice for an average of less than 7 weeks in 1998, far less than the full 6-month benefit under the medicare program.

(7) According to the most recent data available, although more medicare beneficiaries are enrolled in hospice, the medicare length of stay has declined.

(8) Use of hospice among medicare beneficiaries has been decreasing, from a high of 59 days in 1995 to less than 48 days in 1998.

SEC. 3. HOSPICE DEMONSTRATION PROJECTS AND HOSPICE EDUCATION GRANTS.

(a) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means a demonstration project established by the Secretary under subsection (b)(1).

(2) HOSPICE CARE.—The term ''hospice care'' means the items and services described in subparagraphs (A) through (I) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) that are provided to a seriously ill medicare beneficiary under a demonstration project by a hospice program (or by others under an arrangement with such a program) under a written plan for providing such care to such beneficiary established and periodically reviewed by the beneficiary's attending physician, by the medical director of the program, and by the interdisciplinary group described in section 1861(dd)(2)(B) of such Act (42 U.S.C. 1395x(dd)(2)(B)).

(3) HOSPICE PROGRAM.—The term ''hospice program'' has the meaning given that term in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(4) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means any individual who is entitled to benefits under part A or enrolled under part B of the medicare program.

(5) MEDICARE PROGRAM.—The term ''medicare program'' means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) SERIOUSLY ILL.—The term ''seriously ill'' has the meaning given such term by the Secretary (in consultation with hospice programs and academic experts in end-of-life care), except that the Secretary may not limit such term to individuals who are terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(A))).

(b) HOSPICE DEMONSTRATION PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects in accordance with the provisions of this subsection to increase the utility of the hospice care for seriously ill medicare beneficiaries.

(2) PARTICIPATION.—

(A) HOSPICE PROGRAMS.—Except as provided in paragraph (4)(A), only a hospice program with an agreement under section 1866 of the Social Security Act (42 U.S.C. 1395cc), a consortium of such hospice programs, or a State hospice association may participate in the demonstration program.

(B) SERIOUSLY ILL MEDICARE BENEFICIARIES.—The Secretary shall permit any seriously ill medicare beneficiary residing in the service area of a hospice program participating in a demonstration project to participate in such project on a voluntary basis.

(3) SERVICES UNDER DEMONSTRATION PROJECTS.—The provisions of section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) shall apply to the payment for hospice care provided under the demonstration projects, except that—

(A) notwithstanding section 1862(a)(1)(C) of such Act (42 U.S.C. 1395y(a)(1)(C)), the Secretary shall provide for reimbursement for items and services provided under the supportive and comfort care benefit established under paragraph (3);

(B) any licensed nurse practitioner or physician assistant may admit a seriously ill medicare beneficiary as the primary care provider when necessary and within the scope of practice of such practitioner or assistant under State law;

(C) if an underserved community included in a demonstration project does not have a qualified social worker, any professional (other than a social worker) who has the necessary knowledge, skills, and ability to provide medical social services may provide such services;

(D) the Secretary shall waive any requirement that nursing facilities used for respite care have skilled nurses on the premises 24 hours per day;

(E) the Secretary shall permit respite care to be provided to the seriously ill medicare beneficiary at home; and

(F) the Secretary shall waive reimbursement regulations to provide—

(i) reimbursement for consultations and preadmission informational visits, even if the seriously ill medicare beneficiary does not elect hospice care at that time;

(ii) except with respect to the supportive and comfort care benefit under paragraph (3), a minimum payment for hospice care provided under the demonstration projects based on the provision of hospice care to a seriously ill medicare beneficiary for a period of 14 days, that—

(I) the Secretary shall pay to any hospice program participating in a demonstration project and providing such care (regardless of the length of stay of the seriously ill medicare beneficiary); and

(II) may not be less than the amount of payment that would have been made for hospice care if payment had been made at the daily rate of payment for such care under section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i));

(iii) an increase in the reimbursement rates for hospice care to offset—

(I) changes in hospice care and oversight under the demonstration projects;

(II) the higher costs of providing hospice care in rural areas due to lack of economies of scale or large geographic areas; and

(III) the higher costs of providing hospice care in urban underserved areas due to unique costs specifically associated with people living in those areas, including providing security;

(iv) direct payment of any nurse practitioner or physician assistant practicing within the scope of State law in relation to hospice care provided by such practitioner or assistant; and

(v) a per diem rate of payment for in-home care under subparagraph (E) that reflects the range of care needs of the seriously ill medicare beneficiary and that—

(I) in the case of a seriously ill medicare beneficiary that needs routine care, is not less than 150 percent, and not more than 200 percent, of the routine home care rate for hospice care; and

(II) in the case of a seriously ill medicare beneficiary that needs acute care, is equal to the continuous home care day rate for hospice care.

(4) SUPPORTIVE AND COMFORT CARE BENEFIT.—

(A) IN GENERAL.—For purposes of the demonstration projects, the Secretary shall establish a supportive and comfort care benefit for any eligible seriously ill medicare beneficiary (as defined in subparagraph (C)).

(B) PARTICIPATION.—Any individual or entity with an agreement under section 1866 of the Social Security Act (42 U.S.C. 1395cc) may furnish items or services covered under the supportive and comfort care benefit.

(C) BENEFIT.—Under the supportive and comfort care benefit, any eligible seriously ill medicare beneficiary may—

(i) continue to receive benefits for disease and symptom modifying treatment under the medicare program (and the Secretary may not require or prohibit any specific treatment or decision);

(ii) receive case management and hospice care through a hospice program participating in a demonstration project (for which payment shall be made under paragraph (2)(F)(ii)); and

(iii) receive information and education in order to better understand the utility of hospice care.

(D) PAYMENT.—The Secretary shall establish procedures under which the Secretary pays for items and services furnished to seriously ill medicare beneficiaries under the supportive and comfort care benefit on a fee-for-service basis.

(E) ELIGIBLE SERIOUSLY ILL MEDICARE BENEFICIARY DEFINED.—

(i) IN GENERAL.—In this paragraph, the term ''eligible seriously ill medicare beneficiary'' means any seriously ill medicare beneficiary that meets the criteria approved by the Secretary under clause (ii).

(ii) APPROVAL OF CRITERIA.—

(I) IN GENERAL.—With respect to each demonstration project, the Secretary shall approve criteria for determining whether a seriously ill medicare beneficiary is eligible for hospice care under a demonstration project that has been developed by hospice programs in consultation with researchers in end-of-life care and the broader medical community.

(II) DATA COMPARABILITY.—The Secretary may only approve criteria that ensures that each demonstration project yields comparable data with respect to eligible seriously ill medicare beneficiaries on—

(aa) the utilization of services by such beneficiaries;

(bb) the cost of providing services to such beneficiaries, including any costs associated with providing services before an individual is terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(A))); and

(cc) the effect of the demonstration project on the quality of care of such beneficiaries.

(III) LIMITATION.—The Secretary may not approve criteria if the purpose of such criteria is to segment services or to provide a benefit for the chronically ill.

(5) CONDUCT OF DEMONSTRATION PROJECTS.—

(A) SITES.—The Secretary shall conduct demonstration projects in at least 3, but not more than 6, sites (which may be statewide).

(B) SELECTION OF SITES.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall select demonstration sites on the basis of proposals submitted under subparagraph (C) that are located in geographic areas that—

(I) include both urban and rural hospice programs; and

(II) are geographically diverse and readily accessible to a significant number of seriously ill medicare beneficiaries.

(ii) EXCEPTIONS.—

(I) UNDERSERVED URBAN AREAS.—If a geographic area does not have any rural hospice program available to participate in a demonstration project, such area may substitute an underserved urban area, but the Secretary shall give priority to those proposals that include a rural hospice program.

(II) SPECIFIC SITE.—The Secretary shall select as a demonstration site the State in which (according to the Hospital Referral Region of Residence, 1994–1995, as listed in the Dartmouth Atlas of Health Care 1998) the largest metropolitan area of the State had the lowest percentage of medicare beneficiary deaths in a hospital when compared to the largest metropolitan area of each other State, and the percentage of enrollees who experienced intensive care during the last 6 months of life was 21.5 percent.

(C) PROPOSALS.—

(i) IN GENERAL.—The Secretary shall accept proposals by any State hospice association, hospice program, or consortium of hospice programs at such time, in such manner, and in such form as the Secretary may reasonably require.

(ii) RESEARCH DESIGNS.—The Secretary shall permit research designs that use time series, sequential implementation of the intervention, randomization by wait list, and other designs that allow the strongest possible implementation of the demonstration projects, while still allowing strong evaluation about the merits of the demonstration projects.

(D) FACILITATION OF EVALUATION.—The Secretary shall design the program to facilitate the evaluation conducted under paragraph (7).

(6) DURATION.—The Secretary shall complete the demonstration projects within a period of 6½ years that includes a period of 18 months during which the Secretary shall complete the evaluation under paragraph (7).

(7) EVALUATION.—During the 18-month period following the first 5 years of the demonstration projects, the Secretary shall complete an evaluation of the demonstration projects in order to determine—

(A) the short-term and long-term costs and benefits of changing hospice care provided under the medicare program to include the items, services, and reimbursement options provided under the demonstration projects;

(B) whether any increase in payments for the hospice care provided under the medicare program are offset by savings in other parts of the medicare program;

(C) the projected cost of implementing the demonstration projects on a national basis; and

(D) in consultation with hospice organizations and hospice programs (including organizations and providers that represent rural areas), whether a payment system based on diagnosis-related groups is useful for administering the hospice care provided under the medicare program.

(8) REPORTS TO CONGRESS.—

(A) PRELIMINARY REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a preliminary report on the progress made in the demonstration projects.

(B) INTERIM REPORT.—Not later than 30 months after the implementation of the demonstration projects, the Secretary, in consultation with participants in the projects, shall submit to the committees described in subparagraph (A) an interim report on the demonstration projects.

(C) FINAL REPORT.—Not later than the date on which the demonstration projects end, the Secretary shall submit a final report to the committees described in subparagraph (A) on the demonstration projects that includes the results of the evaluation conducted under paragraph (7) and recommendations for appropriate legislative changes.

(9) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(10) SPECIAL RULES FOR PAYMENT OF MEDICARE ADVANTAGE ORGANIZATIONS.—The Secretary shall establish procedures under which the Secretary provides for an appropriate adjustment in the monthly payments made under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) to any Medicare Advantage organization offering a Medicare Advantage plan to reflect the participation of each seriously ill medicare beneficiary enrolled in such plan in a demonstration project.

(c) HOSPICE EDUCATION GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a Hospice Education Grant program under which the Secretary awards education grants to entities participating in the demonstration projects for the purpose of providing information about—

(A) the hospice care under the medicare program; and

(B) the benefits available to medicare beneficiaries under the demonstration projects.

(2) USE OF FUNDS.—Grants awarded under paragraph (1) shall be used—

(A) to provide—

(i) individual or group education to medicare beneficiaries and the families of such beneficiaries; and

(ii) individual or group education of the medical and mental health community caring for medicare beneficiaries; and

(B) to test strategies to improve the general public knowledge about hospice care under the medicare program and the benefits available to medicare beneficiaries under the demonstration projects.

(d) FUNDING.—

(1) HOSPICE DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) such sums as may be necessary to carry out this section.

(B) SUPPORTIVE AND COMFORT CARE BENEFIT.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), in such proportion as the Secretary determines is appropriate, such sums as may be necessary to provide for payment of the costs attributable to the supportive and comfort care benefit.

(2) HOSPICE EDUCATION GRANTS.—The Secretary shall expend such sums as may be necessary for the purposes of carrying out the Hospice Education Grant program established under subsection (c)(1) from the Research and Demonstration Budget of the Centers for Medicare & Medicaid Services.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1002. A bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes; to the Committee on Finance.

MR. GRASSLEY. Mr. President, physician-owned specialty hospitals continue to raise a number of troubling issues, and I feel strongly that additional action to address these issues is needed from Congress. Today, I am pleased to join Senator MAX BAUCUS, the ranking Democrat on the Senate Finance Committee, in introducing the Hospital Fair Competition Act of 2005. This bill has an effective date of June 8, 2005, regardless of when it may be enacted as this is the date the current moratorium on specialty hospitals expires.

Now, specialty hospitals have existed for quite some time. There are other types of hospitals with a special focus, such as children's hospitals and psychiatric facilities. But these are not really what we are talking about. We are talking about the emergence of a new type of hospital. These new facilities are mostly for-profit. They are mainly owned by the physicians who refer their patients to these hospitals. And, they provide treatment in very specific areas such as cardiac, orthopedic or surgical care.

The number of these specialty hospitals has more than tripled in the past 10 years. While they are still relatively small in number—about 100—they are increasing quickly. They are mainly located in certain pockets of the country, concentrated in those States without a ''certificate of need'' requirement. That means they are mainly located in States where hospitals are permitted to add beds or build new facilities without first obtaining approval by the State. This approval process helps ensure that there is an actual public health need for additional health resources in the community.

Congress, in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), placed a moratorium on the development of new physician-owned specialty hospital hospitals until June 8, 2005. First, there were concerns about the conflict of interest inherit in physician self-referral. Second, it was thought that specialty hospitals might be an unfair form of competition. And third, in all of this, was a concern about the impact these hospitals may be having on the health care system as a whole.

The Medicare Payment Advisory Commission (MedPAC) and the Centers for Medicare and Medicaid Services (CMS) were directed by the MMA to study and report on a number of issues related to specialty hospitals. Today's Hospital Fair Competition Act draws heavily from MedPAC's non-partisan recommendations in its March 8, 2005, report to Congress.

Three separate government studies have found that physician-owned specialty hospitals treat the most profitable patients and services, leaving community hospitals to treat a disproportionate share of less profitable cases, Medicaid cases and the uninsured.

An April 2003 report by the Government Accountability Office (GAO) found that patients at specialty hospitals tended to be less sick than patients with the same diagnoses at general hospitals. The Centers for Medicare and Medicaid Services (CMS) reported in March its preliminary findings that specialty hospitals generally treat less severe cases than community hospitals. And, MedPAC reported that physician-owned specialty hospitals treat patients who are less sick, and thus more profitable, and concentrate on certain diagnosis-related groups (DRGs) that are more profitable.

In addition, approximately 93 percent of community hospitals operate emergency rooms, compared to less than half of specialty hospitals, thus treating any and all patients who walk

through their doors. They also serve a much greater share of poor patients, averaging 15 percent versus four percent for specialty heart hospitals and one percent for specialty orthopedic hospitals. When community hospitals lose their profitable services, they must shift costs to private patients to make up the difference. This then means private employers may pay higher premiums—all so physician-owned specialty hospitals can profit.

Specialty hospitals are able to take advantage of an outdated payment system. The current inpatient payment rates have not been recalibrated in over 20 years. This has resulted in certain patients and certain case types being significantly more profitable to treat than others. In fact, specialty heart hospitals have been found by MedPAC to treat Medicare patients who are 13 percent more profitable than the average mix of patients. And at specialty surgical hospitals this number is 14 percent.

This bill would make corrections to the payment system so that certain cases and patients are not significantly more profitable or less profitable to treat than others. While we believe the secretary has the authority to make these payment changes, this bill will direct CMS to do so beginning in 2007. This will improve payment accuracy for all hospitals, and will better reflect the actual cost of delivering care.

But Medicare payment changes are not enough.

I also have great concerns about the inherent conflict of interest in physician ownership. This interest in gaming the system may not be in the best interest of the patient, and this is troubling. Physicians are paid by Medicare to treat the patient. In addition, because they are owners of the hospital, physician owners get a payment from Medicare for use of the facility. And, because they are also investors in the hospital, these physician owners also get dividends on their investment. MedPAC found these annual dividends for older facilities are frequently in excess of 20 percent.

I am concerned that this focus on profit may unduly influence physician decision-making on the part of some physicians. This is not good for unsuspecting patients, the Medicare program or taxpayers. Some physicians may choose where to send a patient based on whether or not they think that patient will profit their hospital. In addition, changes to the payment system don't prevent some physician-owners from selecting patients based on their insurance. Specialty hospitals would likely continue to treat few—if any—poor or uninsured patients.

MedPAC has found that specialty hospital hospitals treat far fewer Medicaid recipients than community hospitals in the same market—75 percent fewer for specialty heart hospitals, and 94 percent fewer for specialty orthopedic hospitals. In addition, CMS found that specialty hospitals provided only about 40 percent of the share of uncompensated care that the local community hospitals provided. We now have 45 million uninsured Americans in our country, and I continue to be very concerned about their health care.

Congress has passed laws that, with very few exceptions, prevent physician physicians from referring Medicare and Medicaid patients to facilities in which they are owners. This was adopted in response to a number of studies that found that physician-owners tended to make more referrals to their facilities and order substantially more services at higher cost.

One exception, however, is the ''whole hospital'' exception. The law allows physicians to invest in a ''whole hospital'' because it is believed that no particular referral would economically advantage a specific physician owner. Because the referrals would be diluted across multiple services, there would not be a direct link to any one physician's income. But specialty hospitals are not really whole hospitals. In fact, they are more like a hospital department such as a cardiac unit or an orthopedic unit. Under current law, we believe that the secretary has the authority to define what constitutes a whole hospital, and we encourage CMS to determine whether specialty hospitals meet this definition. The law clearly states that it is illegal for physicians to invest in hospital departments.

This loophole in the law, the ''whole hospital'' exception, is being exploited. The Hospital Fair Competition Act will close this loophole. New specialty hospitals will not qualify for the ''whole hospital'' exception as of June 8, 2005—the date the moratorium expires.

Existing specialty hospitals, those in operation or under development before November 18, 2003, will be able to continue operating under certain restrictions. These ''grandfathered'' specialty hospitals will be prohibited from increasing their total number of physician owners. Also, the bill caps each individual physician's investment and the aggregate physician investment in the facility as of June 8, 2005. Grandfathered specialty hospitals will not be allowed to expand their scope of services. And finally, they will be prohibited from increasing their number of beds or operating rooms. I believe that halting the growth in physician ownership at existing specialty hospitals is the only way to prevent the inherent conflict of interest associated with self-referral, and ensure that patients' interests are not compromised.

Now, I have heard from a number of physician-owners on this issue and they have said to me that they invest in these hospitals because it allows them to have greater control over their workplace. It gives them a say in operations, and more control over the quality and cost of patient care. I believe that certain coordinated care incentive arrangements have the potential to assist physicians in doing just that.

So this bill would provide an opportunity to better align physician and hospital financial incentives. It would allow physicians to share in hospital savings achieved by re-engineering clinical care in the hospitals. These well-designed and approved arrangements might include agreed-upon use of certain medical devices or implants for certain type of surgeries. Or perhaps they would include improving operating room efficiency and scheduling. Or they might include the adoption of clinical protocols or evidence-based medicine to standardize certain aspects of the practice of medicine.

While these arrangements have the potential to improve patient care while reducing hospital costs, I want to make sure the patient—the Medicare beneficiary—is protected. So, this bill would require the secretary to develop safeguards and monitor these coordinated care arrangements to make sure that physicians are not profiting for increased referrals or for reducing quality care.

In summary, The Hospital Fair Competition Act would:

Improve the accuracy of Medicare inpatient payments by directing the secretary to level the playing field by using estimated costs rather than charges in setting the DRG weights; calculating DRG weights at the hospital level before aggregating them to a national level; adjusting the DRG weights to account for high cost outlier payments, and ensuring that the DRGs appropriately capture differences in the severity of illness of patients.

Allow existing specialty hospitals to continue operation under certain restrictions, especially regarding physician investment.

Close the ''whole hospital'' loophole by prohibiting new specialty hospitals from having ownership or investment interest from physicians who refer Medicare or Medicaid patients to the hospital, effective June 8, 2005.

Allow physicians and hospitals to enter into certain coordinated care arrangements where physicians could share in savings experienced by a hospital by implementing certain cost-reduction efforts.

Establish safeguards to ensure that coordinated care arrangements protect quality of care and minimize any impact on physician referrals.

I urge all my colleagues to join Senator BAUCUS and me in support of this very important bill.

Mr. BAUCUS. Mr. President, I rise today to join Chairman GRASSLEY in introducing the Hospital Fair Competition Act of 2005.

This bill, based primarily on recommendations of the Medicare Payment Advisory Commission (MedPAC), will improve the accuracy of Medicare's inpatient hospital prospective payment system (PPS); prevent the establishment of new specialty hospitals to which physician-owners can self-

refer, while allowing existing physician-owned specialty hospitals to continue with restrictions; and allow ''gainsharing'' arrangements to foster improved physician-hospital efficiency. This legislation is important for patients, taxpayers, and the Medicare program, and I urge my colleagues to support it.

About 17 months ago, Congress passed the Medicare Modernization Act—the MMA. This 400-page bill included many important provisions, including long-awaited outpatient drug benefits under Medicare.

The MMA also included a small provision—Section 507—related to the construction of physician-owned specialty hospitals. These facilities specialize in cardiac, orthopedic or general surgical care, and are partly- or wholly-owned by physicians. The provision was a response to growing concerns over physician self-referral, and placed a moratorium on the construction of new, physician-owned specialty hospitals, while ''grandfathering'' existing facilities and those in development.

Having reviewed several independent analyses on this issue, I believe Congress was right to place a moratorium on specialty hospital construction. And I also believe that moratorium should effectively be extended permanently, while allowing existing facilities to continue operating in their current capacity.

Some view specialty hospitals as innovative, focused factories for high-quality, specialized care. Advocates for these facilities say that by focusing on a limited number of services, specialty hospitals provide excellent care at a good price, while adding competition to the health care marketplace.

Others say specialty hospitals flourish because they exploit a Medicare loophole allowing physician-owners to select patients who are healthier and, therefore, more profitable.

For my part, I don't want to stand in the way of innovation or competition. For example, I'm glad that Congress brought innovation to Medicare in the form of outpatient drug benefits. That was long overdue.

And hospitals and physicians should work together in innovative ways to improve efficiency in health care. The U.S. spends twice as much—or more—per-person on health care compared to any other developed country. And yet, our health outcomes are worse than theirs. We should get a better bang for our health-care buck, and we can take steps to that end by encouraging quality and accountability in health care.

That's why I am pushing to advance incentives for quality improvement in Medicare, so patients—and taxpayers—get the most for their money. I introduced legislation last year to require that Medicare pay dialysis providers and Medicare managed care plans based on the quality of care they provide. And I am working on legislation to extend these principles of paying for quality to other parts of Medicare.

As for competition, I'm all for it—as long as it's carried out on a level playing field. But when it comes to physician ownership of specialty hospitals, I'm not convinced the playing field is level. That's because physicians alone choose where patients go on the playing field—either to community hospitals or specialty hospitals. Some liken physician-owners of specialty hospitals to coaches who choose the starting lineup for both teams—in this case, the specialty hospital team and the community hospital team.

And for the third time, a Federal agency has told us that the healthiest teams, that is, the most profitable patients, end up at physician-owned specialty hospitals.

In 2003, the non-partisan Government Accountability Office (GAO) reported that, by and large, specialty hospitals care for relatively healthier patients than their community hospital counterparts. GAO surveyed 25 specialty hospitals, and found that 21 of the 25 had a less acute mix patients than community hospitals. GAO determined that of the hospitals studied, 17 percent cardiac patients seen by specialty hospitals could be classified as severe cases, compared with 22 percent in general hospitals. And about 5 percent of orthopedic cases in specialty hospitals were severe, compared with 8 percent in community hospitals.

Earlier this year, on March 8, MedPAC issued its MMA-mandated report on specialty hospitals, and arrived at findings similar to those of the GAO. MedPAC found that despite shorter lengths of stay, physician-owned specialty hospitals are not more cost efficient than community hospitals. MedPAC found that specialty hospitals tend to treat lower shares of Medicaid patients than community hospitals. And, just as GAO did, MedPAC found that specialty hospitals treat patients who are generally less sick—and therefore, more profitable—compared to community hospitals.

And while the Department of Health and Human Services has not officially issued its MMA-mandated report on the topic—but is expected to shortly—HHS reported on March 8 that, based on the small number of facilities it studied, specialty hospitals tend to care for a healthier patient population than their community hospital counterparts.

I believe the phenomenon of specialty hospitals treating healthier patients is the result of a loophole in the Stark self-referral law. This loophole—related to the ''whole hospital exception''—is one that should be closed. If it is not closed, Congress will effectively sanction the practice of physician self-referral that has been prohibited for years.

In 1989, the HHS Inspector General reported that patients of referring physicians who owned or invested in independent clinical labs received 45% more lab services than Medicare patients in general.

In 1992, a study found that physical therapy visits per patient were 39% to 45% higher in facilities with physician ownership compared to those without. In short, the authors of the study found that utilization and charges per-patient were higher when facilities were owned by physicians with an ownership interest.

In response to these studies and others like them, Congress passed the Stark laws, to prevent physician self-referral, first in the area of clinical labs, and subsequently in 10 other areas, including physical therapy and certain imaging procedures.

But the Stark laws did not address the issue of physician self-referral to specialty hospitals. In part, that's because there weren't many specialty hospitals at the time. As the GAO pointed out in its 2003 report, the vast majority of specialty hospitals were built in 1992 or later.

Instead, the Stark law included a provision that has come to be known as the ''whole hospital exception.'' While the Stark law prohibits physicians with ownership interest in only a hospital department from referring patients to that department, the law does allow physicians to refer to a facility they partially own, under two conditions. First, the physician must have admitting privileges in that hospital. Second, the physician must have a financial interest in the ''whole hospital,'' not just a department of the hospital.

As the GAO explained in 2003:

''The premise [of the whole hospital exception] is that any referral or decision made by a physician who has a stake in an entire hospital would produce little personal economic gain because hospitals tend to provide a diverse and large group of services. However, the Stark law does prohibit physicians who have ownership interest only in a hospital subdivision from referring patients to that subdivision. With respect to specialty hospitals, the concern exists that, as these hospitals are usually much smaller in size and scope than general hospitals and closer in size to hospital departments, the exception to Stark could allow physician owners to influence their hospitals'—and therefore their own financial gain through practice patterns and referrals.''

The problem with the ''whole hospital'' loophole is that it treats a 10-bed surgical facility the same as a 500–bed community hospital, even though that 10-bed facility more resembles a department of the 500–bed hospital than it does the hospital itself. This loophole is unfair, and our bill closes it, by preventing the establishment of new specialty hospitals to which physician-owners can self-refer.

Let me note that our bill does nothing to prevent the construction of new specialty hospitals—as long as self-referral is not part of the business model. Hospitals specializing in one type of care or another have existed in this country for years, and should be encouraged—as long as their owners and referrers are not one and the same.

Opponents of this bill will likely make at least three claims. First, they

will state that preventing the construction of new, physician-owned specialty hospitals is anticompetitive. Second, they will suggest that since the average physician-owner's share in a specialty hospital is small, economic incentives to self-refer are minimal. Third, they will claim the bill thwarts health care quality. Let me take these claims in turn.

As I stated previously, I am all for competition—as long as it's fair. But I don't think it's fair to further a system in which physician-owners can send healthier and more profitable patients to facilities they own, while sending sicker, less-profitable ones to hospitals they don't own. There's a reason Congress acted to mitigate the effects of physician self referral over 15 years ago, and I see no reason why that principle should not be extended to the specialty hospital setting.

On the issue of economic incentives, some argue that physician self-referral to specialty hospitals is a non-issue, since physicians typically own a very small share of a particular facility. In fact, MedPAC found that in about one-third of specialty hospitals they surveyed, the largest share owned by a single physician was just two percent. And as a group, physicians own just over a third of the typical heart hospital. But MedPAC also pointed out that about one-third of orthopedic and surgical hospitals were owned almost entirely by their physicians. Perhaps more important, MedPAC showed that even a relatively small ownership interest can reap large profits for an individual physician investor. Page 21 of MedPAC's March report on specialty hospitals says:

What is the order of magnitude of physicians financial incentives to increase utilization when they own a hospital? What follows is a hypothetical example of the marginal profit associated with a group of cardiologists each referring just one additional patient (above the current patient load) for coronary artery bypass graft (CABG) surgery. In fiscal year 2002, the base payment for CABG surgery with cardiac catheterization (DRG 107) was roughly $24,000. Our examination of Medicare cost reports and hospital financial statements suggests that variable costs equal approximately 60 percent of the DRG payment, roughly $14,400. Hence the marginal profit—payments minus variable cost—would be $9,600 per patient ($24,000–$14,400). If 10 cardiologists owned a 3 percent interest each and they all induced one additional surgery per year, each cardiologist's income would increase by $2,880 ($9,600 3% 10).''

In other words, even a small ownership share—just three percent—can provide a strong profit motive—and a strong incentive toward self-referral.

Finally, let me address the third claim that will likely be made against this bill—that it thwarts the provision of quality care. Specialty hospital advocates claim that due to the focused nature of their mission, physician-owned specialty hospitals provide better quality and outcomes than their community hospital counterparts. But recently the New England Journal of Medicine published a study showing that patients undergoing certain heart procedures in specialty hospitals were less likely to have coexisting conditions than those being treated at general hospitals. The authors of the study stated, ''. . . given that we found no significant differences in outcomes between specialty and general hospitals with similar volumes or between specialty cardiac hospitals and specialized general hospitals, it could be argued that the specialty-hospital model itself does not yield better outcomes.'' They also said, ''. . . our study provides no definitive evidence that cardiac specialty hospitals provide better or more efficient care than general hospitals with similar procedural volumes.''

In short, there is solid evidence that despite being less efficient, physician-owned specialty hospitals care for healthier, more-profitable patients, leaving community hospitals to care for sicker, less-profitable ones. Economic incentives toward physician self-referral in specialty hospitals are significant. And there is slim evidence that specialty hospitals provide better care than community hospitals.

Given this evidence, it's clear that Congress should not facilitate the construction of more physician-owned specialty hospitals. And while we support ''grandfathering'' existing facilities, let me make clear that we do not intend to create another grandfathering period if the legislation is not enacted before June 8, 2005. The intent of this bill, even if it passes after June 8, is to effectively make permanent the MMA-mandated moratorium.

But this bill does more than simply prevent the establishment of new, physician-owned specialty hospitals. It also takes steps to mitigate ill incentives in the inpatient PPS, by making the PPS more accurate for all providers of hospital care—community hospitals and 'grandfathered' specialty hospitals alike.

Medicare spends about $100 billion per year on inpatient hospital services, and it's important that this system be accurate. Accordingly, MedPAC recommended a number of steps to improve the accuracy of the Medicare inpatient payment system. These recommendations should mitigate incentives for all hospitals to choose healthy patients over sick ones, and to focus on some diagnoses at the expense of others.

Medicare pays hospitals for inpatient services based on roughly 500 Diagnosis Related Groups (DRGs), which bundle services needed to treat a patient with a particular disease. DRGs cover most routine operating costs attributable to patient care, including routine nursing services, room and board, and diagnostic and ancillary services. Under current law, just over five percent of the base payment for all DRGs is set aside for inpatient outlier payments, even though some DRGs have almost no outlier cases. The Hospital Fair Competition Act directs the Secretary to adjust the DRG relative weights to account for differences in the prevalence of high-cost outlier cases, thereby removing their disproportionate impact on the payment system.

The bill also improves accuracy of the DRG weights. Currently DRG weights are based on the national average of hospital charges for a particular DRG. The rate of growth for these charges may vary dramatically, depending on the service. For example, MedPAC has found that hospital markups for ancillary services (e.g., supplies, operating room time) tend to be higher than those of routine services (e.g., room and board, nursing care). As these ancillary and routine charges grow at different rates, the DRGs reflect that growth, gradually skewing the system away from the true costs of providing care. In short, a charge-based system causes Medicare to pay too much for some services, not enough for others. The Hospital Fair Competition Act directs the Secretary to substitute the charge-based system with one based on hospitals' costs, as well as base the DRG weights on the national average of hospitals' relative values in each DRG.

Mind you, we believe that the Secretary currently has the authority to make the payment changes outlined above. The Hospital Fair Competition Act simply directs the Secretary to do so. We also believe the Secretary has the authority to promulgate regulations defining what a ''whole hospital'' is. When Congress passed the ''whole hospital exception'', it did not intend to allow self-referral to facilities that are effectively the equivalent of a hospital wing or department. We believe the Secretary can and should exercise his authority to close the ''whole hospital'' loophole by regulation.

Mr. President, some say that the proliferation of physician-owned specialty hospitals is a function of physicians' desire for control over their workplace. They argue that physicians typically have no say in day-to-day hospital operations, and thus little incentive to improve the quality or efficiency of the care they provide in the hospital. MedPAC's recommendations for ''gainsharing'' stand to alleviate some of that concern, by giving physicians more control over their workplace.

Gainsharing arrangements allow physicians and hospitals to improve hospital efficiency without the undesirable effects of physician self-referral. In a gainsharing arrangement, hospitals and physicians share cost-savings gained by means such as streamlining the purchase of medical devices, substituting less-costly items used in surgical procedures, and maximizing operating room efficiency. While gainsharing arrangements must be developed carefully so as not to compromise quality of patient care, gain sharing has the potential to align physician-hospital incentives so that care

can be delivered in the most cost-effective manner.

I realize that gainsharing arrangements are not a panacea toward improving physician-hospital relations. We can and should do more to give providers of all types a better stake in improving their workplace and the quality of care they provide. That's why I am pushing initiatives to tie Medicare payment to quality, so that—unlike the current system—the best providers are not paid the same rates as mediocre ones. This system of paying for quality stands to improve accountability across the spectrum of Medicare provider types, and give both patients and the government more for their money.

We all know that Medicare's long-term fiscal future is much in doubt. Hardly a day passes without a warning about Medicare's finances and the retirement of the Baby Boom generation that will complicate the long-term financial picture of the program.

Given these warnings, it's imperative that we make the most of the resources at hand, and—where possible—make Medicare a better more responsible buyer of health care. By leveling the playing field regarding patient referrals; improving the accuracy of Medicare's inpatient hospital payments; and giving physicians a larger stake in their hospital workplaces, this bill stands to do that.

Chairman GRASSLEY and I believe these changes will go a long way toward improving much of what ails hospital payment under Medicare, and we urge our colleagues' support for this important legislation.

By Mr. McCAIN:

S. 1003. A bill to amend the Act of December 22, 1974, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing legislation to amend the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion. I look forward to working with all affected parties on this bill and will work with them to ensure it takes into account their views. This bill will phase out the Navajo-Hopi relocation program by September 30, 2008, and at that time transfer all remaining responsibilities to the Secretary of the Interior. It provides a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement homes for those individuals. Under this legislation, the funds that would have been used to provide replacement homes to such individuals will be held in trust by the Secretary for distribution to the individual or their heirs.

The Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve long-standing disputes that have divided the Navajo and Hopi Indian Tribes for over a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the subsequent creation of the 1934 Navajo Reservation. At the time these reservations were established, Navajo families lived within the lands set aside for the Hopi Tribe and Hopi families lived within lands set aside for the Navajo Nation and tensions between the two tribes continued to heighten. In 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title the 1882 reservation and to their respective claims and rights. That legislation gave rise to over 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title the 1934 reservation and to file claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were living on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were living on lands partitioned to the Navajo Nation. Since its establishment, the relocation program has been an extremely difficult and contentious process.

When this program was first established, the estimated cost of providing relocation benefits to approximately 6,000 Navajos estimated eligible for relocation was roughly $40 million. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. By 1996, the United States had expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. At that time, there remained over 640 eligible families who had never received relocation benefits and an additional 50 to 100 families who had never applied for relocation benefits. There were also over 130 eligibility appeals pending. Without question, the funding for this settlement has far exceeded the original cost estimates by more than 1000 percent. Since 1975, Congress has appropriated over $440 million for this program.

At its inception, the relocation program was intended to be a temporary program that was established to fulfill a specific mission and we cannot continue to fund it with no end in sight. Moreover, I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 2005. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2008, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but who has not received a replacement home by September 30, 2008. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

This bill is similar to the legislation I introduced during the 104th Congress. S. 1111 proposed to phase out the relocation program by September 2001. A hearing was held on that bill and comments were received from the affected parties. At that time, many of the witnesses stated that with limited exception, the program could come to a resolution under the time line proposed in S. 1111. Opposition to passing the legislation was based in part on the incomplete process of approval of the accommodation lease agreements between the Hopi Tribe and individual Navajos who were still living on the Hopi partitioned lands. That action has since occurred and the Commission has had eight additional years to conclude its responsibilities. Therefore, it is now time for the Congress to act to bring the long and difficult process of relocation to an orderly conclusion.

I ask unanimous consent that the full 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. 1003

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 ''Navajo-Hopi Land Settlement Amendments of 2005''.

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

Sec. 1. Short title; table of contents.
TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974
Sec. 101. Repeal of sections.
Sec. 102. Definitions; division of land.
Sec. 103. Joint ownership of minerals.
Sec. 104. Actions.
Sec. 105. Paiute Indian allotments.
Sec. 106. Partitioned and other designated land.
Sec. 107. Resettlement land for Navajo Tribe.
Sec. 108. Office of Navajo and Hopi Indian Relocation.
Sec. 109. Report.
Sec. 110. Relocation of households and members.
Sec. 111. Relocation housing.
Sec. 112. Payment for use of land.
Sec. 113. Effect of Act.

Sec. 114. Actions for accounting, fair value of grazing, and claims for damages to land.
Sec. 115. Joint use.
Sec. 116. Religious ceremonies; piping of water.
Sec. 117. Access to religious shrines.
Sec. 118. Exclusion of payments from certain Federal determinations of income.
Sec. 119. Authorization of exchange.
Sec. 120. Severability.
Sec. 121. Authorization of appropriations.
Sec. 122. Funding and construction of high school and medical center.
Sec. 123. Environmental impact; wilderness study; cancellation of leases and permits.
Sec. 124. Attorney fees and court costs.
Sec. 125. Lobbying.
Sec. 126. Navajo Rehabilitation Trust Fund.
Sec. 127. Availability of funds for relocation assistance.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

Sec. 201. Retention preference.
Sec. 202. Separation pay.
Sec. 203. Federal retirement.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Sec. 301. Definitions.
Sec. 302. Transfer of functions.
Sec. 303. Transfer and allocations of appropriations.
Sec. 304. Effect of title.

TITLE I—AMENDMENTS TO THE ACT OF DECEMBER 22, 1974

SEC. 101. REPEAL OF SECTIONS.

(a) IN GENERAL.—The Act of December 22, 1974 (25 U.S.C. 640d et seq.) is amended in the first undesignated section by striking ''That, (a) within'' and all that follows through the end of the section.

(b) ADDITIONAL REPEALS.—Sections 2 through 5 and sections 26 and 30 of the Act of December 22, 1974 (25 U.S.C. 640d–1 through 640d–4; 88 Stat. 1723; 25 U.S.C. 640d–28) are repealed.

SEC. 102. DEFINITIONS; DIVISION OF LAND.

Section 6 of the Act of December 22, 1974 (25 U.S.C. 640d–5) is amended—

(1) by striking ''SEC. 6. The Mediator'' and all that follows through subsection (f) and inserting the following:

''SECTION 1. DEFINITIONS.

''In this Act:

''(1) DISTRICT COURT.—The term 'District Court' means the United States District Court for the District of Arizona.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) TRIBE.—The term 'Tribe' means—

''(A) the Navajo Indian Tribe; and

''(B) the Hopi Indian Tribe.

''SEC. 2. DIVISION OF LAND.

''(a) DIVISION.—

''(1) IN GENERAL.—The land located within the boundaries of the reservation established by Executive order on December 16, 1982, shall be divided into parcels of equal acreage and quality—

''(A) to the maximum extent practicable; and

''(B) in accordance with the final order issued by the District Court on August 30, 1978 (providing for the partition of the surface rights and interest of the Tribes).

''(2) VALUATION OF PARCELS.—For the purpose of calculating the value of a parcel produced by a division under paragraph (1), the Secretary shall—

''(A) take into account any improvement on the land; and

''(B) consider the grazing capacity of the land to be fully restored.

''(3) COMPENSATION BY TRIBES.—If the partition under paragraph (1) results in parcels of unequal value, as determined by the Secretary, the Tribe that receives the more valuable parcel shall pay to the other Tribe compensation in an amount equal to the difference in the values of the parcels, as determined by the Secretary.

''(4) COMPENSATION BY FEDERAL GOVERNMENT.—If the District Court determines that the failure of the Federal Government to fulfill an obligation of the Government decreased the value of a parcel under paragraph (1), the Government shall pay to the recipient of the parcel compensation in an amount equal to the difference between—

''(A) the decreased value of the parcel; and

''(B) the value of the fully restored parcel.'';

(2) by striking ''(g) Any'' and inserting the following:

''(b) LICENSE FEES AND RENTS.—Any''; and

(3) by striking ''(h) Any'' and inserting the following:

''(c) GRAZING AND AGRICULTURAL USE.—Any''.

SEC. 103. JOINT OWNERSHIP OF MINERALS.

Section 7 of the Act of December 22, 1974 (25 U.S.C. 640d–6) is amended—

(1) by striking ''SEC. 7. Partition'' and inserting the following:

''SEC. 3. JOINT OWNERSHIP OF MINERALS.

''(a) IN GENERAL.—Partition''; and

(2) in the second sentence, by striking ''All'' and inserting the following:

''(b) JOINT MANAGEMENT.—All''.

SEC. 104. ACTIONS.

Section 8 of the Act of December 22, 1974 (25 U.S.C. 640d–7) is amended—

(1) by striking ''SEC. 8. (a) Either Tribe'' and inserting the following:

''SEC. 4. ACTIONS.

''(a) ACTIONS IN DISTRICT COURT.—Either Tribe'';

(2) in subsection (b)—

(A) in the first sentence, by striking ''(b) Lands, if any,'' and inserting the following:

''(b) ALLOCATION OF LAND.—

''(1) NAVAJO RESERVATION.—Any land'';

(B) in the second sentence, by striking ''Lands, if any,'' and inserting the following:

''(2) HOPI RESERVATION.—Any land''; and

(C) in the third sentence, by striking ''Any lands'' and inserting the following:

''(3) JOINT AND UNDIVIDED INTERESTS.—Any land'';

(3) in subsection (c)—

(A) by striking ''(c)(1) Either'' and inserting the following:

''(c) EXCHANGE OF LAND.—

''(1) IN GENERAL.—Either'';

(B) in paragraph (2), by striking ''(2) In the event'' and inserting the following:

''(2) INTERESTS OF TRIBES.—If'';

(C) in paragraph (3), by striking ''(3) Neither'' and inserting the following:

''(3) DEFENSE.—Neither''; and

(D) by striking ''section 18'' each place it appears and inserting ''section 14'';

(4) in subsection (d), by striking ''(d) Nothing'' and inserting the following:

''(d) EFFECT OF SECTION.—Nothing'';

(5) in subsection (e), by striking ''(e) The'' and inserting the following:

''(e) PAYMENT OF LEGAL FEES, COURT COSTS, AND OTHER EXPENSES.—The''; and

(6) by striking subsection (f).

SEC. 105. PAIUTE INDIAN ALLOTMENTS.

Section 9 of the Act of December 22, 1974 (25 U.S.C. 640d–8) is amended by striking ''SEC. 9. Notwithstanding'' and inserting the following:

''SEC. 5. PAIUTE INDIAN ALLOTMENTS.

''Notwithstanding''.

SEC. 106. PARTITIONED AND OTHER DESIGNATED LAND.

Section 10 of the Act of December 22, 1974 (25 U.S.C. 640d–9) is amended—

(1) by striking ''SEC. 10. (a) Subject'' and inserting the following:

''SEC. 6. PARTITIONED AND OTHER DESIGNATED LAND.

''(a) NAVAJO TRUST LAND.—Subject'';

(2) in subsection (a), by striking ''section 9 and subsection (a) of section 17'' and inserting ''sections 5 and 13(a)'';

(3) in subsection (b)—

(A) by striking ''(b) Subject'' and inserting the following:

''(b) HOPI TRUST LAND.—Subject'';

(B) by striking ''section 9 and subsection (a) of section 17'' and inserting ''sections 5 and 13(a)'';

(C) by striking ''section 3 or 4'' and inserting ''section 1''; and

(D) by striking ''section 8'' and inserting ''section 4'';

(4) in subsection (c)—

(A) by striking ''(c) The'' and inserting the following:

''(c) PROTECTION OF RIGHTS AND PROPERTY.—The''; and

(B) by striking ''pursuant thereto'' and all that follows through the end of the subsection and inserting ''pursuant to this Act'';

(5) in subsection (d), by striking ''(d) With'' and inserting the following:

''(d) PROTECTION OF BENEFITS AND SERVICES.—With''; and

(6) in subsection (e)—

(A) by striking ''(e)(1) Lands'' and inserting the following:

''(e) TRIBAL JURISDICTION OVER PARTITIONED LAND.—

''(1) IN GENERAL.—Land'';

(B) by adjusting the margins of subparagraphs (A) and (B) of paragraph (1) appropriately; and

(C) in the matter following subparagraph (B)—

(i) by striking ''The provisions'' and inserting the following:

''(2) RESPONSIBILITY OF SECRETARY.—The provisions''; and

(ii) by striking ''life tenants and''.

SEC. 107. RESETTLEMENT LAND FOR NAVAJO TRIBE.

(a) IN GENERAL.—Section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d–10(a)) is amended—

(1) by striking ''SEC. 11. (a) The Secretary'' and inserting the following:

''SEC. 7. RESETTLEMENT LAND FOR NAVAJO TRIBE.

''(a) TRANSFER OF LAND.—

''(1) IN GENERAL.—The Secretary'';

(2) by striking ''(1) transfer not to exceed two hundred and fifty thousand acres of lands'' and inserting the following:

''(A) transfer not more than 250,000 acres of land'';

(3) by striking ''Tribe: *Provided*, That'' and all that follows through ''as possible.'' and inserting ''Tribe; and'';

(4) in the first paragraph designated as paragraph (2)—

(A) by striking ''(2) on behalf'' and inserting the following:

''(B) on behalf''; and

(B) by striking the second sentence;

(5) in the matter following paragraph (1)(B) (as redesignated by paragraph (4))—

(A) in the first sentence—

(i) by striking ''Subject to'' and all that follows through ''all rights'' and inserting the following:

''(4) REQUIREMENTS OF TRANSFER.—

''(A) IN GENERAL.—Subject to this paragraph, all rights''; and

(ii) by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)'';

(B) in the second sentence, by striking ''So long as'' and inserting the following:

''(B) COAL LEASE APPLICATIONS.—

''(i) IN GENERAL.—If'';

(C) in the third sentence, by striking ''If such adjudication'' and inserting the following:

''(ii) ISSUANCE OF LEASES.—If an adjudication under clause (i)'';

(D) in the fourth sentence, by striking ''The leaseholders rights and interests'' and inserting the following:

''(iii) RIGHTS AND INTERESTS OF LEASEHOLDERS.—The rights and interests of a holder of a lease described in clause (i)''; and

(E) in the fifth sentence, by striking ''If any'' and inserting the following:

''(C) CLAIMS UNDER MINING LAW.—If any'';

(6) by inserting after paragraph (1)(B) (as redesignated by paragraph (4)) the following:

''(2) EXCHANGE OF LAND.—

''(A) IN GENERAL.—In order to facilitate a transfer of land under paragraph (1)(A), the Secretary may exchange land described in paragraph (1)(A) for State or private land of equal value.

''(B) UNEQUAL VALUE.—If the State or private land described in subparagraph (A) is of unequal value to the land described in paragraph (1)(A), the recipient of the land that is of greater value shall pay to the other party to the exchange under subparagraph (A) compensation in an amount not to exceed the lesser of—

''(i) the difference between the values of the land exchanged; or

''(ii) the amount that is 25 percent of the total value of the land transferred from the Secretary to the Navajo Tribe.

''(C) RESPONSIBILITY OF SECRETARY.—The Secretary shall ensure that the amount of a payment under subparagraph (B) is as minimal as practicable.

''(3) TITLE TO LAND ACCEPTED.—The Secretary shall accept title to land under paragraph (1)(B) on behalf of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo reservation.''; and

(7) in the second paragraph designated as paragraph (2)—

(A) in the first sentence—

(i) by striking ''(2) Those'' and inserting the following:

''(5) STATE RIGHTS.—

''(A) IN GENERAL.—The''; and

(ii) by striking ''subsection 2 of this section'' and inserting ''paragraph (1)(B)''; and

(B) in the second sentence, by striking ''The'' and inserting the following:

''(B) STATE INTERESTS.—The''.

(b) PROXIMITY OF LAND; EXCHANGES OF LAND.—Section 11(b) of the Act of December 22, 1974 (25 U.S.C. 640d–10(b)) is amended by striking ''(b) A border'' and inserting the following:

''(b) PROXIMITY OF LAND TO BE TRANSFERRED OR ACQUIRED.—A border''.

(c) SELECTION OF LAND.—Section 11(c) of the Act of December 22, 1974 (25 U.S.C. 640d–10(c)) is amended—

(1) by striking ''(c) Lands'' and inserting the following:

''(c) SELECTION OF LAND TO BE TRANSFERRED OR ACQUIRED.—Land''; and

(2) by striking the period at the end and inserting the following: '': *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2008.''.

(d) REPORTS.—Section 11(d) of the Act of December 22, 1974 (25 U.S.C. 640d–10(d)) is amended by striking ''(d) The'' and inserting the following:

''(d) REPORTS.—The''.

(e) PAYMENTS.—Section 11(e) of the Act of December 22, 1974 (25 U.S.C. 640d–10(e)) is amended by striking ''(e) Payments'' and inserting the following:

''(e) PAYMENTS.—Payments''.

(f) ACQUISITION OF TITLE TO SURFACE AND SUBSURFACE INTERESTS.—Section 11(f) of the Act of December 22, 1974 (25 U.S.C. 640d–10(f)) is amended—

(1) by striking ''(f)(1) For'' and inserting the following:

''(f) ACQUISITION OF TITLE TO SURFACE AND SUBSURFACE INTERESTS.—

''(1) IN GENERAL.—For'';

(2) in paragraph (2), by striking ''(2) If'' and inserting the following:

''(2) PUBLIC NOTICE; REPORT.—If''; and

(3) in paragraph (3), by striking ''(3) In any case where'' and inserting the following:

''(3) RIGHTS OF SUBSURFACE OWNERS.—If''.

(g) LAND NOT AVAILABLE FOR TRANSFER.—Section 11(g) of the Act of December 22, 1974 (25 U.S.C. 640d–10(g)) is amended by striking ''(g) No'' and inserting the following:

''(g) LAND NOT AVAILABLE FOR TRANSFER.—No''.

(h) ADMINISTRATION OF LAND TRANSFERRED OR ACQUIRED.—Section 11(h) of the Act of December 22, 1974 (25 U.S.C. 640d–10(h)) is amended—

(1) by striking ''(h) The lands'' and inserting the following:

''(h) ADMINISTRATION OF LAND TRANSFERRED OR ACQUIRED.—

''(1) IN GENERAL.—The land''; and

(2) by adding at the end the following:

''(2) RELOCATION.—

''(A) IN GENERAL.—In order to facilitate relocation of a member of a Tribe, the Commissioner may grant a homesite lease on land acquired under this section to a member of the extended family of a Navajo Indian who is certified as eligible to receive benefits under this Act.

''(B) EXCEPTION.—The Commissioner may not use any funds available to the Commissioner to carry out this Act to provide housing to an extended family member described in subparagraph (A).''.

(i) NEGOTIATIONS REGARDING LAND EXCHANGES AND LEASES.—Section 11(i) of the Act of December 22, 1974 (25 U.S.C. 640d–10(i)) is amended—

(1) by striking ''(i) The'' and inserting the following:

''(i) NEGOTIATIONS REGARDING LAND EXCHANGES AND LEASES.—The''; and

(2) by striking ''section 23'' and inserting ''section 19''.

SEC. 108. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

Section 12 of the Act of December 22, 1974 (25 U.S.C. 640d–11) is amended—

(1) by striking ''SEC. 12. (a) There is hereby'' and inserting the following:

''SEC. 8. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

''(a) ESTABLISHMENT.—There is'';

(2) in subsection (b), by striking ''(b) The'' and inserting the following:

''(b) APPOINTMENT.—The'';

(3) in subsection (c)—

(A) by striking ''(c)(1)(A) Except'' and inserting the following:

''(c) CONTINUATION OF POWERS.—

''(1) POWERS AND DUTIES OF COMMISSIONER; EXISTING FUNDS.—

''(A) POWERS AND DUTIES OF COMMISSIONER.—Except'';

(B) in paragraph (1)(B), by striking ''(B) All'' and inserting the following:

''(B) EXISTING FUNDS.—All''; and

(C) in paragraph (2), by striking ''(2) There are hereby'' and inserting the following:

''(2) TRANSFER OF POWERS.—There are'';

(4) in subsection (d)—

(A) by striking ''(d)(1) Subject'' and inserting the following:

''(d) POWERS OF COMMISSIONER.—

''(1) IN GENERAL.—Subject'';

(B) by adjusting the margins of subparagraphs (A) and (B) of paragraph (1) appropriately;

(C) in paragraph (2), by striking ''(2) The'' and inserting the following:

''(2) CONTRACTS.—The''; and

(D) in paragraph (3), by striking ''(3) There'' and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There'';

(5) in subsection (e)—

(A) by striking ''(e)(1)'' and inserting the following:

''(e) ADMINISTRATION.—

''(1) ADMINISTRATIVE, FISCAL, AND HOUSEKEEPING SERVICES.—

(B) in paragraph (1)—

(i) in the first sentence, by striking ''The'' and inserting the following:

''(A) IN GENERAL.—The''; and

(ii) in the second sentence, by striking ''In any'' and inserting the following:

''(B) ASSISTANCE FROM DEPARTMENTS AND AGENCIES.—In any''; and

(C) in paragraph (2), by striking ''(2) On'' and inserting the following:

''(2) FAILURE TO PROVIDE ASSISTANCE.—On'';

(6) by striking subsection (f) and inserting the following:

''(f) TERMINATION.—

''(1) IN GENERAL.—The Office of Navajo and Hopi Indian Relocation shall terminate on September 30, 2008.

''(2) TRANSFER OF OFFICE DUTIES.—On the date of termination of the Office, any duty of the Office that has not been carried out, as determined in accordance with this Act, shall be transferred to the Secretary in accordance with title III of the Navajo-Hopi Land Settlement Amendments of 2005.''; and

(7) by adding at the end the following:

''(g) OFFICE OF RELOCATION.—

''(1) ESTABLISHMENT.—Effective on October 1, 2006, there is established in the Department of the Interior an Office of Relocation.

''(2) DUTIES.—The Secretary, acting through the Office of Relocation, shall carry out the duties of the Office of Navajo and Hopi Indian Relocation that are transferred to the Secretary in accordance with title III of the Navajo-Hopi Land Settlement Amendments of 2005.

''(3) TERMINATION.—The Office of Relocation shall terminate on the date on which the Secretary determines that the duties of the Office have been carried out.''.

SEC. 109. REPORT.

Section 13 of the Act of December 22, 1974 (25 U.S.C. 640d–12) is amended—

(1) by striking ''SEC. 13. (a) By no'' and inserting the following:

''SEC. 9. REPORT.

''(a) IN GENERAL.—Not''; and

(2) in subsection (b)—

(A) by striking ''(b) The'' and inserting the following:

''(b) INCLUSIONS.—The''; and

(B) by striking ''contain, among other matters, the following:'' and inserting ''include—''.

SEC. 110. RELOCATION OF HOUSEHOLDS AND MEMBERS.

Section 14 of the Act of December 22, 1974 (25 U.S.C. 640d–13) is amended—

(1) by striking ''SEC. 14. (a)'' and inserting the following:

''SEC. 10. RELOCATION OF HOUSEHOLDS AND MEMBERS.

''(a) AUTHORIZATION.—'';

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking ''Consistent'' and inserting the following:

''(1) IN GENERAL.—Consistent'';

(ii) by striking ''section 8'' each place it appears and inserting ''section 4''; and

(iii) by striking ''section 3 or 4'' and inserting ''section 1'';

(B) by striking the second sentence;

(C) in the third sentence, by striking ''No further'' and inserting the following:

''(2) SETTLEMENTS OF NAVAJO.—No further'';

(D) in the fourth sentence, by striking ''No further'' and inserting the following:

''(3) SETTLEMENTS OF HOPI.—No further''; and

(E) in the fifth sentence, by striking ''No individual'' and inserting the following:

''(4) GRAZING.—No individual'';

(3) in subsection (b)—

(A) by striking ''(b) In addition'' and inserting the following:

''(b) ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS—In addition'';

(B) by striking ''section 15'' and inserting ''section 11''; and

(C) by striking ''section 13'' and inserting ''section 9'';

(4) in subsection (c), by striking ''(c) No'' and inserting the following:

''(c) PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—No''; and

(5) by adding at the end the following:

''(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2005, that head of household has not been certified as eligible to receive the payment.''.

SEC. 111. RELOCATION HOUSING.

Section 15 of the Act of December 22, 1974 (25 U.S.C. 640d–14) is amended—

(1) by striking ''SEC. 15. (a)'' and inserting the following:

''SEC. 11. RELOCATION HOUSING.

''(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''The Commission'' and inserting the following:

''(1) IN GENERAL.—The Commission''; and

(B) in the second sentence—

(i) by striking ''The purchase'' and inserting the following:

''(2) PURCHASE PRICE.—The purchase''; and

(ii) by striking ''as determined under clause (2) of subsection (b) of section 13'';

(3) in subsection (b)—

(A) by striking ''(b) In addition'' and inserting the following:

''(b) REIMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—In addition'';

(B) by striking ''shall:'' and inserting ''shall—''; and

(C) in paragraph (1), by inserting ''and'' after the semicolon at the end;

(4) in subsection (c)—

(A) by striking ''(c) In implementing'' and inserting the following:

''(c) STANDARDS; CERTAIN PAYMENTS.—

''(1) STANDARDS.—In carrying out''; and

(B) in the second sentence—

(i) by striking ''No payment'' and inserting the following:

''(2) CERTAIN PAYMENTS.—No payment'';

(ii) by striking ''section 8'' and inserting ''section 4''; and

(iii) by striking ''section 3 or 4'' and inserting ''section 1'';

(5) in subsection (d)—

(A) by striking ''(d) The'' and inserting the following:

''(d) METHODS OF PAYMENT.—The'';

(B) by striking ''(1) Should'' and inserting the following:

''(1) HOME OWNERSHIP OPPORTUNITY PROJECTS.—Should'';

(C) by striking ''(2) Should'' and inserting the following:

''(2) PURCHASED AND CONSTRUCTED DWELLINGS.—Should''; and

(D) by striking ''(3) Should'' and inserting the following:

''(3) FAILURE TO ARRANGE RELOCATION.—Should'';

(6) in subsection (e)—

(A) by striking ''(e) The'' and inserting the following:

''(e) DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—The'';

(B) by striking ''section 8'' and inserting ''section 4''; and

(C) by striking ''section 3 or 4'' and inserting ''section 1'';

(7) in subsection (f), by striking ''(f) Notwithstanding'' and inserting the following:

''(f) PREFERENTIAL TREATMENT.—Notwithstanding''; and

(8) by striking subsection (g) and inserting the following:

''(g) BENEFITS HELD IN TRUST.—

''(1) IN GENERAL.—Not later than September 30, 2008, the Commissioner shall notify the Secretary of the identity of any head of household that, as of that date—

''(A) is certified as eligible to receive benefits under this Act;

''(B) does not reside on land that has been partitioned to the Tribe of which the head of household is a member; and

''(C) has not received a replacement home.

''(2) TRANSFER OF FUNDS.—Not later than September 30, 2008, the Commissioner shall transfer to the Secretary any funds not used by the Commissioner to make payments under this Act to eligible heads of households.

''(3) DISPOSITION OF TRANSFERRED FUNDS.—

''(A) IN GENERAL.—The Secretary shall hold any funds transferred under paragraph (2) in trust for the heads of households described in paragraph (1)(A).

''(B) PAYMENT AMOUNTS.—Of the funds held in trust under subparagraph (A), the Secretary shall make payments to heads of households described in paragraph (1)(A) in amounts that would have been made to the heads of households under this Act before September 30, 2008—

''(i) on receipt of a request of a head of household, to be used for a replacement home; or

''(ii) on the date of death of the head of household, if the head of household does not make a request under clause (i), in accordance with subparagraph (C).

''(C) DISTRIBUTION OF FUNDS ON DEATH OF HEAD OF HOUSEHOLD.—If the Secretary holds funds in trust under this paragraph for a head of household described in paragraph (1)(A) on the death of the head of household, the Secretary shall—

''(i) identify and notify any heir of the head of household; and

''(ii) distribute the funds held by the Secretary for the head of household to any heir—

''(I) immediately, if the heir is at least 18 years old; or

''(II) if the heir is younger than 18 years old on the date on which the Secretary identified the heir, on the date on which the heir attains the age of 18.

''(h) NOTIFICATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Amendments of 2005, the Commissioner shall notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on land partitioned to the Hopi Tribe, in accordance with section 700.138 of title 25, Code of Federal Regulations (or a successor regulation).

''(2) LIST.—On the date on which a notice period referred to in section 700.139 of title 25, Code of Federal Regulations (or a successor regulation), expires, the Commissioner shall submit to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

''(A) continues to reside on land that has not been partitioned to the Tribe of the head of household; and

''(B) has not entered into a lease to reside on that land.

''(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 2008, but not later than 90 days after receiving a notice of the imminent removal of a relocatee from land provided to the Hopi Tribe under this Act from the Secretary or the United States Attorney for the District of Arizona, the Commissioner may begin construction of a replacement home on any land acquired under section 6.

''(i) APPEALS.—

''(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure for any appeal relating to the denial of eligibility for benefits under this Act (including regulations promulgated pursuant to this Act) that is pending on, or filed after, the date of enactment of Navajo-Hopi Land Settlement Amendments of 2005.

''(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

''(A) provide for a hearing before an impartial third party, as the Commissioner determines necessary: and

''(B) ensure that a final determination is made by the Office of Navajo and Hopi Indian Relocation for each appeal described in paragraph (1) by not later than January 1, 2008.

''(3) NOTICE.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Amendments of 2005, the Commissioner shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

''(B) REQUIREMENTS FOR NOTICE.—The notice provided under subparagraph (A) shall—

''(i) specify that a request for a determination of eligibility for benefits under this Act shall be presented to the Commission not later than 180 days after the date on which the notice is issued; and

''(ii) be provided—

''(I) by mail (including means other than certified mail) to the last known address of the recipient; and

''(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

''(j) PROCUREMENT OF SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or agreements to procure such services, and employ such personnel (including attorneys), as the Commissioner determines to be necessary.

''(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals to make available to the Office of Navajo and Hopi Indian Relocation an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A), as determined by the Commissioner.

''(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner pursuant to this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (referred to in this subsection as the 'Circuit Court').

''(2) REVIEW.—

''(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal described in paragraph (1)—

''(i) review the entire record (as certified to the Circuit Court under paragraph (3)) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

''(ii) on the basis of that review, affirm or reverse that determination.

''(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

''(3) NOTICE OF APPEAL.—

''(A) IN GENERAL.—Not later than 30 days after a determination of ineligibility under paragraph (1), an affected individual shall file a notice of appeal with—

''(i) the Circuit Court; and

''(ii) the Commissioner.

''(B) CERTIFICATION OF RECORD.—On receipt of a notice under subparagraph (A)(ii), the Commissioner shall submit to the Circuit Court the certified record on which the determination that is the subject of the appeal was made.

''(C) REVIEW PERIOD.— Not later than 60 days after receiving a certified record under subparagraph (B), the Circuit Court shall conduct a review and file a decision regarding an appeal in accordance with paragraph (2).

''(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.''.

SEC. 112. PAYMENT FOR USE OF LAND.

Section 16 of the Act of December 22, 1974 (25 U.S.C. 640d–15) is amended—

(1) by striking ''SEC. 16. (a) The Navajo'' and inserting the following:

''SEC. 12. PAYMENT FOR USE OF LAND.

''(a) IN GENERAL.—The Navajo'';

(2) in subsection (a), by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 4''; and

(3) in subsection (b)—

(A) by striking ''(b) The'' and inserting the following:

''(b) PAYMENT.—The''; and

(B) by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 4''.

SEC. 113. EFFECT OF ACT.

Section 17 of the Act of December 22, 1974 (25 U.S.C. 640d–16) is amended—

(1) by striking ''SEC. 17. (a)'' and inserting the following:

''SEC. 13. EFFECT OF ACT.

''(a) TITLE, POSSESSION, AND ENJOYMENT.—'';

(2) in subsection (a)—

(A) in the first sentence, by striking ''Nothing'' and inserting the following:

''(1) IN GENERAL.—Nothing''; and

(B) in the second sentence, by striking ''Such'' and inserting the following:

''(2) RESIDENCE ON OTHER RESERVATIONS.—Any''; and

(3) in subsection (b), by striking ''(b) Nothing'' and inserting the following:

''(b) FEDERAL EMPLOYEES.—Nothing''.

SEC. 114. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

Section 18 of the Act of December 22, 1974 (25 U.S.C. 640d–17) is amended—

(1) by striking ''SEC. 18. (a) Either'' and inserting the following:

''SEC. 14. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

''(a) ACTIONS BY TRIBES.—Either'';

(2) in subsection (a), by striking ''section 3 or 4'' and inserting ''section 1'';

(3) in subsection (b)—

(A) by striking ''(b) Neither'' and inserting the following:

''(b) DEFENSES.—Neither''; and

(B) by striking ''section 3 or 4'' and inserting ''section 1'';

(4) in subsection (c)—

(A) by striking ''(c) Either'' and inserting the following:

''(c) FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO ENSURE QUIET ENJOYMENT.—

''(1) IN GENERAL.—Either''; and

(B) in the second sentence, by striking ''Such actions'' and inserting the following:

''(2) ACTION THROUGH CHAIRMAN.—An action under paragraph (1)'';

(5) in subsection (d)—

(A) by striking ''(d) Except'' and inserting the following:

''(d) UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES—

''(1) IN GENERAL.—Except''; and

(B) in the second sentence, by striking ''Any judgment or judgments'' and inserting the following:

''(2) EFFECT OF JUDGMENTS.—Any judgment''; and

(6) in subsection (e), by striking ''(e) All'' and inserting the following:

''(e) REMEDIES.—All''.

SEC. 115. JOINT USE.

Section 19 of the Act of December 22, 1974 (25 U.S.C. 640d–18) is amended—

(1) by striking ''SEC. 19. (a) Notwithstanding'' and inserting the following:

''SEC. 15. JOINT USE.

''(a) REDUCTION OF LIVESTOCK.—

''(1) IN GENERAL.—Notwithstanding'';

(2) in subsection (a)(1) (as designated by paragraph (1))—

(A) by striking ''section 3 or 4'' and inserting ''section 1''; and

(B) in the second sentence, by striking ''The Secretary is directed to'' and inserting the following:

''(2) CONSERVATION PRACTICES AND METHODS.—The Secretary shall'';

(3) in subsection (b)—

(A) by striking ''(b) The'' and inserting the following:

''(b) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—The''; and

(B) by striking ''sections 8 and 3 or 4'' each place it appears and inserting ''sections 1 and 4''; and

(4) in subsection (c)—

(A) by striking ''(c)(1) Surveying'' and inserting the following:

''(c) SURVEYING, MONUMENTING, AND FENCING; LIVESTOCK REDUCTION PROGRAM.—

''(1) SURVEYING, MONUMENTING, AND FENCING.—Surveying'';

(B) in paragraph (1)—

(i) by striking ''section 4'' and inserting ''section 1''; and

(ii) by striking ''section 8'' and inserting ''section 4''; and

(C) in paragraph (2), by striking ''(2) The'' and inserting the following:

''(2) LIVESTOCK REDUCTION PROGRAM.—The''.

SEC. 116. RELIGIOUS CEREMONIES; PIPING OF WATER.

Section 20 of the Act of December 22, 1974 (25 U.S.C. 640d–19) is amended by striking ''SEC. 20. The members'' and inserting the following:

''SEC. 16. RELIGIOUS CEREMONIAL USES; PIPING OF WATER.

The members''.

SEC. 117. ACCESS TO RELIGIOUS SHRINES.

Section 21 of the Act of December 22, 1974 (25 U.S.C. 640d–20) is amended by striking ''SEC. 21. Notwithstanding'' and inserting the following:

''SEC. 17. ACCESS TO RELIGIOUS SHRINES.

Notwithstanding''.

SEC. 118. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

Section 22 of the Act of December 22, 1974 (25 U.S.C. 640d–21) is amended—

(1) by striking ''SEC. 22. The availability'' and inserting the following:

''SEC. 18. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

''(a) IN GENERAL.—The availability''; and

(2) by striking ''None of the funds'' and inserting the following:

''(b) FEDERAL AND STATE INCOME TAXES.—None of the funds''.

SEC. 119. AUTHORIZATION OF EXCHANGE.

Section 23 of the Act of December 22, 1974 (25 U.S.C. 649d–22) is amended—

(1) by striking ''SEC. 23. The Navajo'' and inserting the following:

''SEC. 19. AUTHORIZATION OF EXCHANGE.

''(a) IN GENERAL.—The Navajo''; and

(2) in the second sentence—

(A) by striking ''In the event that the Tribes should'' and inserting the following:

''(b) NEGOTIATED EXCHANGES.—If the Tribes''; and

(B) by striking ''sections 14 and 15'' and inserting ''sections 10 and 11''.

SEC. 120. SEVERABILITY.

Section 24 of the Act of December 22, 1974 (25 U.S.C. 640d–23) is amended by striking ''SEC. 24. If'' and inserting the following:

''SEC. 20. SEVERABILITY.

''If''.

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

Section 25 of the Act of December 22, 1974 (25 U.S.C. 640d–24) is—

(1) moved so as to appear at the end of the Act; and

(2) amended to read as follows:

''SEC. 27. AUTHORIZATION OF APPROPRIATIONS.

''(a) RELOCATION OF HOUSEHOLDS AND MEMBERS.—There is authorized to be appropriated to carry out section 10(b) $13,000,000.

''(b) RELOCATION OF HOUSEHOLDS AND MEMBERS.—There are authorized to be appropriated to carry out section 11 such sums as are necessary for each of fiscal years 2006 through 2008.

''(c) RETURN TO CARRYING CAPACITY AND INSTITUTION OF CONSERVATION PRACTICES.—There is authorized to be appropriated to carry out section 15(a) $10,000,000.

''(d) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—There is authorized to be appropriated to carry out section 15(b) $500,000.''.

SEC. 122. FUNDING AND CONSTRUCTION OF HIGH SCHOOL AND MEDICAL CENTER.

Section 27 of the Act of December 22, 1974 (25 U.S.C. 640d–25) is amended by striking ''SEC. 27.'' and all that follows through ''(c) The Secretary'' and inserting the following:

''SEC. 21. FUNDING AND CONSTRUCTION OF HIGH SCHOOL AND MEDICAL CENTER.

''The Secretary''.

SEC. 123. ENVIRONMENTAL IMPACT; WILDERNESS STUDY; CANCELLATION OF LEASES AND PERMITS.

Section 28 of the Act of December 22, 1974 (25 U.S.C. 640d–26) is amended—

(1) by striking ''SEC. 28. (a) No action'' and inserting the following:

''SEC. 22. ENVIRONMENTAL IMPACT; WILDERNESS STUDY; CANCELLATION OF LEASES AND PERMITS.

''(a) IN GENERAL.—No action'';

(2) in subsection (b), by striking ''(b) Any'' and inserting the following:

''(b) EFFECT OF WILDERNESS STUDY.—Any''; and

(3) by adding at the end the following:

''(c) CONSTRUCTION REQUIREMENTS.—

''(1) IN GENERAL.—Any construction activity under this Act shall be carried out in accordance with sections 3 through 7 of the Act

of June 27, 1960 (16 U.S.C. 469a–1 through 469c).

''(2) COMPLIANCE WITH OTHER REQUIREMENTS.—If a construction activity meets the requirements under paragraph (1), the activity shall be considered to be in accordance with any applicable requirement of—

''(A) Public Law 89–665 (80 Stat. 915); and

''(B) the Act of June 8, 1906 (34 Stat. 225, chapter 3060).''.

SEC. 124. ATTORNEY FEES AND COURT COSTS.

Section 29 of the Act of December 22, 1974 (25 U.S.C. 640d–27) is amended—

(1) by striking ''SEC. 29. (a)'' and inserting the following:

''SEC. 23. ATTORNEY FEES AND COURT COSTS.

''(a) IN GENERAL.—'';

(2) in subsection (a)—

(A) by striking ''In any'' and inserting the following:

''(1) IN GENERAL.—In any''; and

(B) by striking ''For each'' and inserting the following:

''(2) AUTHORIZATION OF APPROPRIATIONS.—For each'';

(3) in subsection (b)—

(A) by striking ''(b) Upon'' and inserting the following:

''(b) AWARD BY COURT.—

''(1) IN GENERAL.—On''; and

(B) in the second sentence, by striking ''Any party'' and inserting the following:

''(2) REIMBURSEMENT OF UNITED STATES.—Any party'';

(4) in subsection (c), by striking ''(c) To'' and inserting the following:

''(c) EXCESS DIFFERENCE.—To''; and

(5) in subsection (d)—

(A) by striking ''(d) This'' and inserting the following:

''(d) APPLICATION OF SECTION.—This''; and

(B) by striking ''section 8 or 18(a) of this Act'' and inserting ''section 4 or section 14(a)''.

SEC. 125. LOBBYING.

Section 31 of the Act of December 22, 1974 (25 U.S.C. 640d–29) is amended—

(1) by striking ''SEC. 31. (a) Except'' and inserting the following:

''SEC. 24. LOBBYING.

''(a) IN GENERAL.—Except''; and

(2) in subsection (b), by striking ''(b) Subsection'' and inserting the following:

''(b) APPLICABILITY.—Subsection''.

SEC. 126. NAVAJO REHABILITATION TRUST FUND.

The first section designated as section 32 of the Act of December 22, 1974 (25 U.S.C. 640d–30) is amended—

(1) by striking ''SEC. 32. (a) There'' and inserting the following:

''SEC. 25. NAVAJO REHABILITATION TRUST FUND.

''(a) ESTABLISHMENT.—There'';

(2) in subsection (b), by striking ''(b) All'' and inserting the following:

''(b) DEPOSIT OF INCOME INTO FUND.—All'';

(3) in subsection (c), by striking ''(c) The'' and inserting the following:

''(c) INVESTMENT OF FUNDS.—The'';

(4) in subsection (d)—

(A) by striking ''(d) Funds'' and inserting the following:

''(d) AVAILABILITY OF FUNDS.—Funds'';

(B) in paragraph (1), by striking ''proceedings,'' and inserting ''proceedings;''; and

(C) in paragraph (2), by striking ''Act, or'' and inserting ''Act; or'';

(5) in subsection (e)—

(A) by striking ''(e) By December 1'' and inserting the following:

''(e) EXPENDITURE OF FUNDS.—

''(1) IN GENERAL.—Not later than December 1''; and

(B) in the second sentence, by striking ''Such framework is to be'' and inserting the following:

''(2) REQUIREMENT.—The framework under paragraph (1) shall be'';

(6) in subsection (f)—

(A) by striking ''(f) The'' and inserting the following:

''(f) TERMINATION.—

''(1) IN GENERAL.—The''; and

(B) in the second sentence, by striking ''All funds'' and inserting the following:

''(2) TRANSFER OF REMAINING FUNDS.—All funds''; and

(7) in subsection (g)—

(A) by striking ''(g) There is hereby'' and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is'';

(B) in the first sentence, by striking ''1990, 1991, 1992, 1993, 1994, and 1995'' and inserting ''2006 through 2008''; and

(C) in the second sentence, by striking ''The income'' and inserting the following:

''(2) INCOME FROM LAND.—The income''.

SEC. 127. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE.

The second section designated as section 32 of the Act of December 22, 1974 (25 U.S.C. 640–31) is amended by striking ''SEC. 32. Nothing'' and inserting the following:

''SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE.''.

''Nothing''.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking ''or'' after ''Senate'' and inserting a comma;

(2) by striking ''or'' after ''Service'' and inserting a comma; and

(3) by inserting '', or to an employee of the Office of Navajo and Hopi Indian Relocation'' before the period.

SEC. 202. SEPARATION PAY.

(a) IN GENERAL.—Chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (referred to in this section as the 'Office') in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

''(b) SEPARATION PAY.—

''(1) IN GENERAL.—Under the program established under subsection (a), the Commissioner of the Office may offer separation pay only to employees within an occupational group or at a pay level that minimizes the disruption of ongoing Office programs at the time that the separation pay is offered.

''(2) REQUIREMENT.—Any separation pay offered under this subsection—

''(A) shall be paid in a lump sum;

''(B) shall be in an amount equal to $25,000, if paid on or before December 31, 2007;

''(C) shall be in an amount equal to $20,000, if paid after December 31, 2007, and before January 1, 2009;

''(D) shall be in an amount equal to $15,000, if paid after December 31, 2008, and before January 1, 2010;

''(E) shall not—

''(i) be a basis for payment;

''(ii) be considered to be income for the purposes of computing any other type of benefit provided by the Federal Government; and

''(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, shall not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

''(c) PROHIBITION.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 31, 2009.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following:

''5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.''.

SEC. 203. FEDERAL RETIREMENT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IMMEDIATE RETIREMENT.—Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting ''or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1985, and ending on the date of separation of that employee'' before the final comma.

(2) COMPUTATION OF ANNUITY.—Section 8339(d) of title 5, United States Code, is amended by adding at the end the following:

''(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection (a), except that with respect to service of that employee on or after January 1, 1985, the annuity of that employee shall be in an amount equal to the sum of—

''(A) the product obtained by multiplying—

''(i) 2½ percent of the average pay of the employee; and

''(ii) the quantity of service of the employee on or after January 1, 1985, that does not exceed 10 years; and

''(B) the product obtained by multiplying—

''(i) 2 percent of the average pay of the employee; and

''(ii) the quantity of the service of the employee on or after January 1, 1985, that exceeds 10 years.''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IMMEDIATE RETIREMENT.—Section 8412 of title 5, United States Code, is amended by adding at the end the following:

''(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

''(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1985, and ending on the date of separation of that individual; and

''(2)(A) has completed 25 years of service at any age; or

''(B) has attained the age of 50 years and has completed 20 years of service.''.

(2) COMPUTATION OF BASIC ANNUITY.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating subsection (*l*) as subsection (m);

(2) by redesignating the second subsection designated as subsection (k) as subsection (*l*); and

(3) by adding at the end the following:

''(n) The annuity of an employee retiring under section 8412(i) shall be determined in accordance with subsection (d), except that with respect to service during the period beginning on January 1, 1985, the annuity of the employee shall be an amount equal to the sum of—

''(1) the product obtained by multiplying—

''(A) 2 percent of the average pay of the employee; and

''(B) the quantity of the total service of the employee that does not exceed 10 years; and

''(2) the product obtained by multiplying—

''(A) 1½ percent of the average pay of the employee; and

''(B) the quantity of the total service of the employee that exceeds 10 years.''.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

In this title:

(1) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551(1) of title 5, United States Code.

(2) FUNCTION.—The term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) OFFICE.—The term ''Office'' means the Office of Navajo and Hopi Relocation (including any component of that office).

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date of enactment of this Act, there is transferred to the Secretary of the Interior any function of the Office that has not been carried out by the Office on the date of enactment of this Act, as determined by the Secretary of the Interior in accordance with the Act of December 22, 1974 (25 U.S.C. 640 et seq.) (as amended by title I).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act and the amendments made by this Act, any asset, liability, contract, property, record, or unexpended balance of appropriations, authorizations, allocations, and other funds made available to carry out the functions transferred by this title shall be transferred to the Secretary of the Interior, subject to section 1531 of title 31, United States Code.

(b) USE OF FUNDS.—Any unexpended funds transferred under subsection (a) shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. EFFECT OF TITLE.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—Any legal document relating to a function transferred by this title that is in effect on the date of enactment of this Act shall continue in effect in accordance with the terms of the document until the document is modified or terminated by—

(1) the President;

(2) the Secretary of the Interior;

(3) a court of competent jurisdiction; or

(4) operation of Federal or State law.

(b) PROCEEDINGS NOT AFFECTED.—This title shall not affect any proceeding (including a notice of proposed rulemaking, an administrative proceeding, and an application for a license, permit, certificate, or financial assistance) relating to a function transferred under this title that is pending before the Office of Navajo and Hopi Relocation on the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. REID, and Mr. JEFFORDS):

S. 1007. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today I am introducing legislation with Senators SNOWE, ROCKEFELLER, HUTCHISON, REID, and JEFFORDS that would increase Medicaid Federal matching payments to 28 States by addressing a problem with the Medicaid funding formula that is expected to result in a majority of States in the country having their Federal matching rate drop this coming fiscal year.

Our legislation, the ''Medicaid Formula Fairness Act of 2005,'' would protect these 28 States from decreases in the amount of Federal funding they can expect to receive in fiscal year 2006. For the vulnerable low-income children, pregnant women, disabled, and senior citizens that the Medicaid programs in those 28 States serve. This legislation may be the only thing preventing them from losing their health benefits and joining the ranks of our Nation's uninsured, which is already at 45 million people.

In New Mexico, more than one-in-five or over 400,000 New Mexicans are uninsured and the State is facing a $78 million reduction in the federal Medicaid matching rate for fiscal year 2006. This is not the result of a dramatic upswing in the economy in New Mexico. The most recent poverty data from the U.S. Census Bureau actually indicates an upswing in the percentage of New Mexicans in poverty at 18 percent—the second highest poverty rate in the country.

Thus, at the very time when there are more people in need of medical care through the Medicaid program, the Federal Government is apparently reducing its assistance through Medicaid. So how is this possible?

The first problem is with the Medicaid matching formula itself. It is based on per capita income, which was established as a proxy for both need and State capacity many years ago. We now have much better data on what should be the factors in the Medicaid formula, including poverty and total taxable resource measures, but the old proxy of per capita income remains.

Despite numerous reports from the General Accounting Office, the HHS inspector general, and outside organizations calling for such an update to the Federal Medicaid formula, nothing has happened over the years. Rather than fighting that battle again, our legislation acknowledges that we are stuck with per capita income as the formula factor. Instead, we take issue with how that factor is dropping Federal matching rates across the Nation while the national poverty rate continues to rise. Again, how is this possible?

In the fall of 2004, the Centers for Medicare and Medicaid Services, CMS, published the Federal Medical Assistance Percentage, or FMAP, for fiscal year 2006 based on per capital income, PCI, data from 2001, 2002, and 2003. According to the Federal Funds Information for States, FFIS, Issue Brief in September 2004, changes in the FMAP will cause States to lose a net $527 million in Federal matching funds in the Medicaid Program with decreases of $867 million to 29 States partially offset by increases for 9 States.

CMS acknowledges that 29 States will lose Federal funding, nine States will gain, and the balance of the States will not be impacted by the Medicaid changes because the latter group of 12 States are already at the statutory minimum FMAP of 50 percent.

Federal law dictates that the FMAP is determined based on the ''three most recent calendar years for which satisfactory data are available from the Department of Commerce.'' Thus, for fiscal year 2006, the PCI data used is from the years 2001, 2002, and 2003. The Federal intent of a 3-year rolling average is to limit the fluctuations that States might experience since only one-third of the formula is changed on a yearly basis. In other words, Congress felt it important enough to limit the fluctuations in the matching rate through the 3-year rolling average of PCI data that the result is the use of data from 2001 for the calculation of the fiscal year 2006 FMAP.

However, as analysis by the Oklahoma Health Care Authority indicates, in the case of the calculation, of the fiscal year 2006 FMAP, the U.S. Department of Commerce's Bureau of Economic Analysis, BEA, performed a comprehensive revision of its calculation of PCI in 2003, as it does every 4 to 5 years, and provided revised data for previous years as well. As a result, CMS changed the 2001 and 2002 PCI data for States in the calculation, Consequently, all 3 years of the PCI data were being changed rather than just one-third.

The result is rather dramatic fluctuations—mostly negative—to State FMAP calculations, As the FFIS Issue Brief indicated, ''Fifteen States are projected to have changes of greater than one percentage point in fiscal year 2006, compared to only three for FY 2005.'' Not since 1998 have the fluctuations been this dramatic.

According to the Congressional Research Service (CRS), the average change in the FMAP between fiscal year 2001 and fiscal year 2002 was −0.26 percentage points, for fiscal year 2003 it was +0.32, for fiscal year 2004 it was +0.12, and for fiscal year 2005 it was −0.09. Thus, over this 4-year period, the average change in the national FMAP was less than 0.2 percentage points. However, due in part to the rebenchmarking of data by BEA, the fiscal year 2006 change in the FMAP will be −0.55 percentage points. Compared to average change over the preceeding 4 years, the fiscal year 2006 FMAP change will be almost three times as dramatic.

As a result, 29 States will absorb a decline in the FMAP for fiscal year 2006. The Oklahoma Health Care Authority estimates that this will cost those States $860 million. The largest projected percentage point decreases are for Alaska, −7.42, Wyoming, −3.67, New Mexico, −3.15, Oklahoma, −2.27, Maine, −1.99, West Virginia, −1.66, North Dakota, −1.64, Vermont, −1.62, Utah, −1.38, Montana, −1.36, Alabama, −1.32, Louisiana, −1.25, Nevada, −1.14, and Mississippi, −1.08.

The largest dollar declines would be experienced by the states of New Mexico, −$79 million, Louisiana, −$72 million, Alaska, −$69 million, Tennessee, −$68 million, Oklahoma, −$66 million,

Alabama, −$55 million, and Maine, −$47 million.

FFIS adds, ''While the changes in FY 2006 are significant, for many states they only add to previous reductions. Thirteen states (Alaska, Kentucky, Louisiana, Maine, Montana, New Mexico, North Dakota, Oklahoma, Rhode Island, Vermont, West Virginia, Wisconsin, and Wyoming) will experience three consecutive reductions—from the fiscal relief FMAP to the base FMAP in FY 2004 to a second reduction in FY 2005 and a third in FY 2006. The cumulative 5-year reduction for a number of States is large, and for many unprecedented—Wyoming (−10.37), Alaska (−9.97), North Dakota (−4.14), Vermont (−3.91), Oklahoma (−3.33), Maine (−3.22), and South Dakota (−3.24).''

The loss in funds to these 29 States is already resulting in planned cuts in benefits and services to Medicaid eligible recipients, such as low-income children, pregnant women, the elderly and disabled, and decreased reimbursement to Medicaid providers, including physicians, hospitals, nursing homes, community health centers, etc.

In an effort to minimize the dramatic fluctuations in the Fiscal Year 2006 FMAP, this legislation would limit the loss of States in the FMAP to 0.5 percentage points, which restores $442 million of the lost Medicaid dollars to 18 States. The bill would also give 10 additional States a higher FMAP if changes to PCI for 2001 and 2002 were not retroactively applied by CMS. This translates to approximately $229 million for a total of $671 million. This is still far less than the $860 million lost to the 29 States by FMAP reductions.

Therefore, this legislation I am introducing with Senator SNOWE and others does not hold States entirely harmless. However, it does limit the losses in Federal Medicaid matching funds that States are expected to absorb due to problems with the use of per capita income as a factor in the Medicaid formula but also in how it is used. Our legislation mitigates those problems, and does so with the expressed intent of preventing millions of additional Americans from joining the ranks of the uninsured as many of our States will be forced to undertake cuts to the Medicaid program to make up for lost Federal funding.

Specifically, the bill allows States to get the better of: 1. the FMAP as calculated by CMS; 2. a recalculated FMAP without retroactively changing the 2001 and 2002 per capita income data; or, 3. a hold harmless limiting the reduction in the FMAP to 0.5 percentage points.

In New Mexico, for example, the ''Medicaid Formula Fairness Act of 2005'' would restore $66 million of the $78 million that New Mexico is scheduled to lose due to the drop in the Federal Medicaid matching rate. The other 27 States that would benefit from the legislation and the estimated amount they would receive are as follows: Texas—$113 million, New Mexico—$66 million, Alaska—$64 million, Oklahoma—$52 million, Louisiana—$43 million, Maine—$35 million, Alabama—$34 million, West Virginia—$27 million, Tennessee—$27 million, Florida—$25 million, Mississippi—$22 million, Arizona—$22 million, Nevada—$17 million, Arkansas—$14 million, Utah—$14 million, North Carolina—$14 million, Wyoming—$13 million, Vermont—$10 million, Wisconsin—$9 million, Rhode Island—$8 million, Georgia—$8 million, Oregon—$6 million, North Dakota—$6 million, Montana—$6 million, South Carolina—$6 million, Idaho—$5 million, South Dakota—$3 million, and Kansas—$2 million.

I would like to thank the Oklahoma Health Care Authority, including Mike Fogarty and Stephen Weiss, for their outstanding work in analyzing the problem with the Fiscal Year 2006 FMAP and for their technical assistance and counsel toward the introduction of this legislation. I would also like to thank Senators SNOWE, ROCKEFELLER, HUTCHISON, REID, and JEFFORDS for providing bipartisan support as original cosponsors of this important legislation.

I ask unanimous consent that the text of the bill and a letter be printed in the RECORD.

There be no objection, the material was ordered to be printed in the RECORD.

S. 1007

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 ''Medicaid Formula Fairness Act of 2005''.

SEC. 2. LIMITATION ON SEVERE REDUCTION IN THE MEDICAID FMAP FOR FISCAL YEAR 2006.

(a) LIMITATION ON REDUCTION.—In no case shall the FMAP for a State for fiscal year 2006 be less than the greater of the following:

(1) HALF PERCENTAGE POINT DECREASE.—The FMAP determined for the State for fiscal year 2005, decreased by 0.5 percentage points.

(2) COMPUTATION WITHOUT RETROACTIVE APPLICATION OF REBENCHMARKED PER CAPITA INCOME.—The FMAP that would have been determined for the State for fiscal year 2006 if the per capita incomes for 2001 and 2002 that was used to determine the FMAP for the State for fiscal year 2005 were used.

(b) SCOPE OF APPLICATION.—The FMAP applicable to a State for fiscal year 2006 after the application of subsection (a) shall apply only for purposes of titles XIX and XXI of the Social Security Act (including for purposes of making disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4) and payments under such titles that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b))) and shall not apply with respect to payments under title IV of such Act (42 U.S.C. 601 et seq.).

(c) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

SEC. 3. REPEAL.

Effective as of October 1, 2006, section 2 is repealed and shall not apply to any fiscal year after fiscal year 2006.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, March 28, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of our 4,700 hospital, health care system, and other health care provider members, and our 31,000 individual members, the American Hospital Association (AHA) is writing to express our support for your legislation to limit FY 2006 Medicaid federal medical assistance percentage (FMAP) reductions.

Recently the Bureau of Economic Affairs in the Department of Commerce rebenchmarked per capita income for states, and the Centers for Medicare & Medicaid Services (CMS) retroactively applied the changes. The Medicaid FMAP uses a three-year rolling average to smooth out dramatic changes in the states' matching rates from year-to-year. By retroactively applying the new benchmark, however, CMS undermined the rationale of the three-year rolling average; therefore 22 states will see their FMAP drop by more than 0.5 percentage points in FY 2006—a reduction of an estimated $752 million in FY 2006. About $550 million of this is due to the retroactive recalculation.

The prospect of more Medicaid hospital payment reductions due to decreased federal Medicaid funding is a serious threat to the viability of hospitals and the patients they serve. We realize that it is critical that states provide their share of the state-federal Medicaid funding match in order for vulnerable citizens to obtain and retain health care coverage and health services. Your legislation would help states by limiting the FMAP drop to 0.5 percent, restoring $468 million of the funds that are lost due to the recalculation of per capita income.

We applaud your leadership on this issue and support enactment of this legislation.

Sincerely,

RICK POLLACK,
Executive Vice President.

Ms. SNOWE. Mr. President, I am pleased to join Senator BINGAMAN today, along with Senators ROCKEFELLER, HUTCHISON, REID, and JEFFORDS, in introducing the Medicaid Formula Fairness Act of 2005. This legislation will provide a temporary increase in Medicaid Federal matching payments to 28 States and thereby avoid a significant loss funds which would otherwise occur due to a precipitous and unpredicted drop in the Federal matching rate for these States next year.

Medicaid provides essential medical care to low-income children, pregnant women, parents of dependent children, senior citizens, and people with disabilities and functions as a critical safety net for our most vulnerable populations. Enrollment in the Medicaid program has grown by nearly one-third since the beginning of 2001, as the numbers of those in poverty and individuals without private health insurance continues to increase. In Maine, where we have an older and less wealthy population, more than 300,000 people were enrolled in Medicaid last year. One in five individuals in the State now receives health care services through MaineCare, the State's Medicaid program.

States have experienced severe fiscal stress during the last few years, with sharp declines in revenues and budget shortfalls. This economic downturn, from which many States are only now emerging, has continued to leave many families jobless and without health insurance, forcing to turn to Medicaid. This has put an enormous strain on the States such as Maine which are already strapped with budget shortfalls. Many States reduced Medicaid benefits last year and even more restricted Medicaid eligibility in an effort to satisfy their budgetary obligations.

The formula for calculating the Federal matching rate, known as the Federal Medical Assistance Percentage, FMAP, which determines the Federal Government's share of Medicaid expenditures, has contributed to the Medicaid problems that States are facing. The FMAP formula is designed so that the Federal Government pays a larger portion of Medicaid costs in States with a per capita income lower than the national average. Since Maine is a relatively poor State with a disproportionately large low-income elderly population, it has had a favorable Federal-State match in recent years, 66 percent in 2004. This translated to $1.4 billion in Federal dollars last year—two-thirds of MaineCare's $2 billion in Medicaid spending.

The size of Maine's Medicaid population means that any change in the FMAP has a disproportionately significant impact on Maine's budget. This year, Maine's Federal matching rate decreased from 66.01 percent to 64.89 percent, a drop of more than one percent. The change in FMAP for FY2006 is even greater and will cause 28 States, including Maine, to lose a significant amount of Federal matching funds next year. Maine's Federal matching rate will drop nearly two points, from 64.89 percent to 62.9 percent next year, which will result in Maine losing $46.7 million in Federal matching funds.

Under existing Federal law, the FMAP is determined based on the three most recent calendar years for which data is available from the Department of Commerce. This 3 year ''look back'' captures a period of time that is not necessarily reflective of a State's current financial situation. The FMAP for FY 2003, for example, was calculated in 2001 for the fiscal year beginning October 2002. The FY 2003 FMAP was determined on the basis, of State per capita income over the 3 year period of 1998 through 2000, when State economies were growing significantly. Yet in 2003, when this matching rate was in effect, a serious economic downturn was affecting many State budgets, and that downturn has contributed greatly to the growth of Medicaid for several years now.

We recognized this situation in the last Congress and provided for State fiscal relief by providing a temporary increase in the Federal Medicaid matching rate, which provided $10 billion in fiscal relief to States during fiscal 2003 and 2004, when we passed the Jobs and Growth Tax Relief Reconciliation Act of 2003 but that temporary Federal fiscal relief has now ended.

This Congress has reached a budget agreement which, among its terms, calls for reductions of $10 billion in Medicaid spending over the next 5 years. At this time, therefore, it is especially crucial that we continue to provide sufficient Federal matching funds for Medicaid, which has worked so well over the last 40 years. Our legislation is intended to be just a short term fix, for fiscal year 2006. It is my hope that we will see the creation of a Medicaid Commission to undertake a comprehensive review of the Medicaid program and make recommendations on how to make Federal matching payments more equitable with respect to the States and the populations they serve, as well as how to make them more responsive to changes in States' economic conditions.

However, today, states such as Maine are facing dramatic and unpredictable fluctuations to their State FMAP formulas. This legislation would limit the percentage decrease to a half percentage point for fiscal year 2006 and help mitigate the drastic effects that a severe loss Federal funding would have on our Medicaid population next year.

I therefore urge my colleagues to join us supporting this legislation to help sustain funding for Medicaid in fiscal year 2006 to help ensure that this critical health care safety net remains intact next year for those who need it most.

AMENDMENTS SUBMITTED AND PROPOSED

SA 619. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 620. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 621. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 622. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 623. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 624. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 625. Mr. LAUTENBERG (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 626. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 627. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 628. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 629. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 630. Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 631. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 632. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 633. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 634. Mr. DAYTON (for himself, Mr. LUGAR, Mr. DURBIN, Mr. COLEMAN, Mr. HARKIN, Mr. GRASSLEY, Mr. BINGAMAN, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 635. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 636. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 637. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 638. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 639. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 640. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 641. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 642. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 643. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 644. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 645. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 646. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 647. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 648. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 649. Mr. MARTINEZ (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 650. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 651. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE TO THE BILL H.R. 3, SUPRA; WHICH WAS ORDERED TO LIE ON THE TABLE.

SA 652. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 653. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 654. Mr. DORGAN (for himself, Mr. CONRAD, Mr. BURNS, Mr. THUNE, Mr. JOHNSON, Mr. NELSON, of Nebraska, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 655. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H .R. 3, supra; which was ordered to lie on the table.

SA 656. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H .R. 3, supra; which was ordered to lie on the table.

SA 657. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H .R. 3, supra; which was ordered to lie on the table.

SA 658. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H .R. 3, supra; which was ordered to lie on the table.

SA 659. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H .R. 3, supra; which was ordered to lie on the table.

SA 660. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 661. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 662. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 663. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 664. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 665. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 666. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 667. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 668. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 669. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 670. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra ; which was ordered to lie on the table.

SA 671. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 672. Mr. NELSON, of Florida (for himself, Mr. MARTINEZ, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 673. Mr. AKAKA (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 674. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 675. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 676. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 677. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 678. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 679. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 680. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 681. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 682. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 683. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 684. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 685. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 686. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 687. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 688. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 689. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 690. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 691. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 692. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 693. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 694. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 697. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 698. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 699. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 700. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 701. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 702. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 703. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 704. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 705. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 706. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 707. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 708. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 709. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 710. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 711. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 712. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 713. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 714. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 715. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 716. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 717. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 718. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 719. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 720. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 721. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 722. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 723. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 724. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 725. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 726. Mr. INHOFE (for himself, Mr. BAYH, Mr. WARNER, Mr. JEFFORDS, Mr. LUGAR, Mrs. CLINTON, Mr. CHAFEE, Mr. OBAMA, Ms. LANDRIEU, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 727. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 728. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 729. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 730. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 731. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 732. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 733. Mr. ALEXANDER (for himself, Mr. GRAHAM, Mr. BURR, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 734. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 735. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 736. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 737. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 738. Mr. KYL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 739. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 740. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 741. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 742. Mr. INHOFE (for Mr. TALENT (for himself and Mr . DODD)) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

TEXT OF AMENDMENTS

SA 619. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1403 and insert the following:

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

"§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

''(a) DEFINITIONS.—In this section:

''(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means

grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

''(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

''(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

''(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that—

''(i) an individual described in subparagraph (B) shall—

''(I) receive a driver's license suspension;

''(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

''(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

''(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

''(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment; and

''(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

''(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

''(I) receive a driver's license suspension; and

''(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

''(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment.

''(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

''(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 10 consecutive years;

''(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence; or

''(iii) refuses a blood alcohol concentration test while under arrest or investigation for involvement in a fatal or serious injury crash.

''(4) LICENSE SUSPENSION.—The term 'license suspension' means, for a period of not less than 1 year—

''(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

''(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

''(5) MOTOR VEHICLE.—

''(A) IN GENERAL.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

''(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

''(i) a vehicle operated solely on a rail line; or

''(ii) a commercial vehicle.

''(b) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

''(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

''(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

''(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

''164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.''.

SA 620. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 407, strike line 13 and insert the following:

(3)(A) that traverse at least 3 States;

(B) that are connected to a corridor that traverses at least 3 States by—

(i) less than 215 miles; and

(ii) a single Interstate Route; or

(C) that—

(i) are less than 75 miles; and

(ii) connect to a corridor that is otherwise eligible under this subsection; and

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SA 621. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) CONTENTS.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) ADMINISTRATION.—

(1) IN GENERAL.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) FEDERAL SHARE.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) REPORT.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) AUTHORIZATION.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

SA 622. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC.___. COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the ''Secretaries'') shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) CONSULTATION.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) CONTENTS.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) REPORT AND UPDATES.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

SA 623. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. FINISH PROGRAM.

(a) IN GENERAL.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1409(a)), is amended by adding at the end the following:

''§ 180. FINISH program

''(a) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

''(b) ELIGIBLE PROJECTS.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

''(c) APPORTIONMENT.—For each of fiscal years 2005 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

''(1) the estimated amount that may be obligated for the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

''(2) the total estimated amount that may be obligated for the fiscal year for the completion of eligible projects described in subsection (b) in all States.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1409(b)), is amended by adding at the end the following:

''180. FINISH program.''.

SA 624. Mr. MURRAY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Highway Administration.

(2) CITY.—The term ''City'' means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term ''earthquake'' means the Nisqually earthquake of 2001.

(4) FUND.—The term ''Fund'' means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term ''State'' means the Washington State Department of Transportation.

(6) VIADUCT.—The term ''Viaduct'' means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

(d) ASSISTANCE FROM THE EMERGENCY RELIEF PROGRAM.—If the study indicates that the Viaduct is eligible for assistance from the Fund, the assistance shall be made available for the Viaduct subject to the conditions that—

(1) the amount of assistance provided from the Fund shall not exceed—

(A) 50 percent of the cost of a new comparable replacement structure for the Viaduct; or

(B) if the study determines that repair or retrofit of the Viaduct is feasible, 86.5 percent of the cost of repair or retrofit of the Viaduct;

(2) for any single fiscal year, the amount of assistance provided from the Fund shall not exceed $50,000,000;

(3) amounts made available from the Fund may be applied toward the replacement costs of a new alternative structure for the Viaduct, as provided for under existing Federal Highway Administration regulations; and

(4) if amounts from the Fund are to be used toward the replacement costs of a new alternative structure for the Viaduct under paragraph (3)—

(A) the State and the City shall examine all available capital financing opportunities available under Federal guidelines, including—

(i) funding under subchapter II of chapter 1 of title 23, United States Code;

(ii) funding through a State infrastructure bank;

(iii) user fees (including tolls);

(iv) design-build arrangements; and

(v) private financing;

(B) the State and the City shall explore cost-saving opportunities that may be available by coordinating the Viaduct replacement project and any seawall replacement project for the City; and

(C) usual and reasonable finance costs incurred by the State and the City shall, consistent with existing Federal Highway Administration regulations, be considered to be eligible expenditures under section 125 of title 23, United States Code.

SA 625. Mr. LAUTENBERG (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. ___. UNIVERSAL HELMET SAFETY STANDARD FOR OPERATION OF MOTORCYCLES.

Section 153 of title 23, United States Code, is amended—

(1) in subsection (a), by striking ''fiscal year—'' and all that follows through ''(2) a law'' and inserting ''fiscal year a law'';

(2) in subsection (f)—

(A) in paragraph (2), by striking ''fiscal year—'' and all that follows through ''(B) had in effect at all times a State law described in subsection (a)(2)'' and inserting ''fiscal year had in effect at all times a State law described in subsection (a)''; and

(B) in paragraph (3), by striking ''fiscal year—'' and all that follows through ''(B) had in effect at all times a State law described in subsection (a)(2)'' and inserting ''fiscal year had in effect at all times a State law described in subsection (a)'';

(3) in subsection (h)—

(A) in paragraph (1), by striking ''subsection (a)(2)'' and inserting ''subsection (a)''; and

(B) in paragraph (2), by striking ''subsection (a)(2)'' and inserting ''subsection (a)'';

(4) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(5) by inserting after subsection (h) the following:

''(i) MOTORCYCLE HELMET USE LAWS.—

''(1) FISCAL YEAR 2009.—If, at any time in fiscal year 2008, a State does not have in effect and is not enforcing a law that makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet, the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2009 under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

''(2) FISCAL YEAR 2010 AND THEREAFTER.—If, at any time in fiscal year beginning after September 30, 2008, a State does not have in effect and is not enforcing a law described in paragraph (1), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

''(3) APPLICABLE PROVISIONS.—Paragraphs (3), (4), and (5) of subsection (h) shall apply

to obligations transferred under this subsection.''.

SA 626. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike lines 1 through 14 and insert the following:

(4) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(5) by inserting after subparagraph (C) the following:

''(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.

''(E) USE OF FUNDS FOR COARSE PARTICULATE MATTER.—Nothing in this paragraph precludes the use by a State of funds made available under this paragraph to address air pollution caused by coarse particulate matter (PM_{10}).''.

SA 627. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle B of title V, add the following:

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

''(iv) in the case of liquefied petroleum gas and P Series Fuels, 18.3 cents per gallon,

''(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

''(vi) in the case of liquefied natural gas, any liquid fuel derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.''.

(2) TREATMENT OF ALTERNATIVE FUEL AS TAXABLE FUEL.—

(A) IN GENERAL.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking ''and'' at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting '', and'', and

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

''(D) alternative fuel.''.

(B) DEFINITION.—Section 4083(a) is amended by adding at the end the following new paragraph:

''(4) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

''(A) compressed or liquefied natural gas,

''(B) liquefied petroleum gas,

''(C) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

''(D) hydrogen,

''(E) any liquid fuel derived from coal (including peat), and

''(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) SPECIAL MOTOR FUELS.—

''(A) IN GENERAL.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil)—

''(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

''(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

''(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel if tax was imposed on such alternative fuel under section 4081 and the tax thereon was not credited or refunded.

''(C) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use.

''(D) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).''.

(B) Section 4041(b)(2) is amended by striking ''2007'' both places it appears and inserting ''2005''.

(C) Section 4041, as amended by section 5101 of this Act, is amended by striking subsection (m).

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended by striking ''plus'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

''(3) the alternative fuel credit, plus

''(4) the alternative fuel mixture credit.''.

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

''(d) ALTERNATIVE FUEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

''(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' has the meaning given such term by section 4083(a)(4), except such term does not include ethanol or methanol.

''(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

''(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

''(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

''(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

''(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.''.

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking ''**ALCOHOL FUEL AND BIODIESEL**'' and inserting ''**CERTAIN ALTERNATIVE FUEL**''.

(B) The table of sections for subchapter B of chapter 65 is amended by striking ''**ALCOHOL FUEL AND BIODIESEL**'' in the item relating to section 6426 and inserting ''certain alternative fuel''.

(C) Section 6427(a) is amended by striking ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' and inserting ''section 4041(a)(2) or 4041(c)''.

(D) Section 6427(e) is amended—

(i) by inserting ''or the alternative fuel mixture credit'' after ''biodiesel mixture credit'' in paragraph (1),

(ii) by inserting ''or alternative fuel'' after ''section 40A(d)(2))'' in paragraph (2),

(iii) by striking ''and'' at the end of paragraph (3)(A),

(iv) by striking the period at the end of paragraph (3)(B),

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

''(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after December 31, 2010.'', and

(vi) by striking ''OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES'' in the heading and inserting '', BIODIESEL, OR ALTERNATIVE FUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after December 31, 2005.

SA 628. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 439, line 3, insert ''and the National Center for Earthquake Engineering Research at the University of Buffalo,'' after ''Reno,''.

SA 628. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ROAD AND HIGHWAY GRADE SEPARATIONS.

(a) IN GENERAL.—The Secretary shall carry out a program under which the Secretary provides grants to States and units of local government for use in constructing tunnels, bridges, and other means of separating railroad tracks and roads.

(b) PRIORITY.—In providing grants under this section, the Secretary shall give priority to projects involving—

(1) separations of railroad tracks and roads that would have the most impact on improving safety; and

(2) rail lines that have a high volume of goods movement.

(c) REGULATIONS; POLICIES.—The Secretary shall promulgate such regulations and establish such policies as are necessary to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.

SA 630. Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, strike line 17 and insert the following:

''(i) Lesley University-Tufts University Joint Transportation Center, Massachusetts.

SA 631. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1234, strike lines 8 and all that follows through ''prevent'' on page 1235, line 1, and insert the following

''(b) NOTICE AND APPROVAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any proposed civil action under subsection (a). The notice shall include a copy of the complaint to be filed, as well as other such information as the Secretary may require in order to evaluate the proposed action. Prior to initiating such civil action, the State shall obtain the written approval of the Secretary or the Board, as the case may be. Approval shall only be granted if—

(1) the carrier or broker (as such terms are defined in section 13102 of title 49, United States Code) is not registered with the Department of Transportation; or

(2) the license of a carrier or broker is pending revocation for failure to file proof of the required bodily injury or cargo liability insurance or has been revoked for any other reason by the Department of Transportation; or

(3) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department of Transportation; or

(4) the carrier or broker has been licensed with the Department of Transportation for less than five (5) years.

(c) AUTHORITY TO INTERVENE.—Once approval has been granted under subsection (b), nothing in this section shall be construed to limit the independent authority of the Secretary or Board to intervene and be heard on all matters arising in civil action under subsection (a).

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

(1) convey a right to initiate or maintain class action lawsuits to enforce Federal laws or regulations; or

(2) prevent

SA 632. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

Subtitle G—United States Tax Court Modernization

SEC. 5700. SHORT TITLE.

This title may be cited as the ''United States Tax Court Modernization Act''.

PART I—TAX COURT PROCEDURE

SEC. 5701. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 5702. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7436(c), and''.

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 5703. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 5704. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows ''petition'' and inserting a period.

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

SEC. 5705. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) LAW CLERKS AND SECRETARIES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

''(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection

Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 5706. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

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

PART II—TAX COURT PENSION AND COMPENSATION

SEC. 5711. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 20 percent of such average annual salary, divided by the number of such children.

''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 40 percent of such average annual salary, divided by the number of such children.

''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

''(3) TERMINATION OF ANNUITY.—

''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

''(B) the amount of such salary deductions that were actually made before the date of the judge's death.''.

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''.

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

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

''(i) DETERMINATIONS BY CHIEF JUDGE.—

''(1) DEPENDENCY AND DISABILITY.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''.

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

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

''(m) COMPUTATION OF ANNUITIES.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.''.

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''.

SEC. 5712. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 5713. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court and to any retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5714. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.

SEC. 5715. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 5716. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(k) THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

''(i) retires under subsection (b), or

''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

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

SEC. 5717. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5718. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

''(a) APPOINTMENT, TENURE, AND REMOVAL.—

''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

''(2) TREATMENT OF UNUSED LEAVE.—

''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

SEC. 5719. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

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

''(b) ELECTION.—

''(1) JUDGES.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

''(A) 6 months after the date of the enactment of this paragraph,

''(B) the date the judge takes office, or

''(C) the date the judge marries.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting ''**AND MAGISTRATE JUDGES**'' after ''**JUDGES**''.

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

(B) in the last sentence, by striking ''subsections (a)(6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

SEC. 5720. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

''(C) retired pay under section 7447, or

''(D) retired pay under section 7296 of title 38, United States Code.

''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

''(i) PAYMENTS PURSUANT TO COURT ORDER.—

''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the

Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

''(n) LUMP-SUM PAYMENTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

''(2) SPOUSES AND FORMER SPOUSES.—

''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

''(i) if the service covered thereby aggregates 1 year or less, or

''(ii) for the fractional part of a month in the total service.

''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(3) UNFUNDED LIABILITY.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

''(ii) the balance in the Fund as of the date the unfunded liability is determined.

''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 5721 of the United States Tax Court Modernization Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 5721 of the United States Tax Court Modernization Act,

''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 5721 of the United States Tax Court Modernization Act, or

''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 5721 of the United States Tax Court Modernization Act.

''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 5721 of the United States Tax Court Modernization Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 5721. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this part, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 5722. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

''(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

''(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

''(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

''(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

''Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 5723. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect on the date of the enactment of this Act.

SA 633. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, between lines 21 and 22, insert the following:

(d) SAN JOAQUIN VALLEY PILOT TRUCK TOLL PROGRAM.—

(1) IN GENERAL.—The Secretary may establish toll facilities in the San Joaquin Valley, California, to test the effectiveness of imposing certain tolls on trucks to abate air pollution in an extreme nonattainment area.

(2) CONDITIONS.—The toll shall be established only if the State of California determines, and the Secretary agrees, that in an extreme nonattainment area, including on a State highway that is regularly used for interstate commerce and is used as alternative route to an interstate highway, a toll would bring about substantial abatement of air pollution from interstate commerce. In making a determination with respect to the abatement, the Secretary may consider alternative collection methods, such as using interstate truck weighing stations to assess variable fees and taking into account the amount of emissions generated.

(3) DEFINITIONS.—In this subsection, the term ''truck'' has the meaning given that term under California law on the date of enactment of this Act.

(4) LIMITATION.—Tolls under this subsection shall only apply to trucks with a gross vehicle weight rating of 14,000 pounds or more.

SA 634. Mr. DAYTON (for himself, Mr. LUGAR, Mr. DURBIN, Mr. COLEMAN, Mr. HARKIN, Mr. BINGAMAN, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

''(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

''(1) a permanent label inside the automobile's fuel door compartment that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

''(2) a temporary label to the window or windshield of the automobile that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) identifies the automobile as capable of operating on such alternative fuel.''.

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term ''model year'' shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting ''or (e)'' after ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting ''32908(e),'' after ''32908(b),''.

SA 635. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TAX CREDIT FOR RURAL COMMUTERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

"SEC. 25C. RURAL COMMUTER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

''(b) ELIGIBLE COMMUTER.—For purposes of this section:

''(1) IN GENERAL.—The term 'eligible commuter' means an individual who, during the taxable year—

''(A) resides in an eligible State,

''(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

''(C) has an adjusted gross income of less than—

''(i) in the case of a joint return, $100,000,

''(ii) in the case of a head of household return, $75,000, and

''(iii) in any other case, $50,000.

''(2) ELIGIBLE STATE.—

''(A) IN GENERAL.—The term 'eligible State' means any State with respect to which—

''(i) the percentage of the population residing in urban areas is less than the national average,

''(ii) the disposable personal income per capita is less than 114 percent of the national average, and

''(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

''(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

''(3) STATE.—The term 'State' means the 50 States of the United States.

''(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Rural commuter credit.''.

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

SA 636. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. ___. US-95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified as the preferred alternative in the document entitled ''US–95 Project in Las Vegas, Nevada'', as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

SA 637. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In title VI, on page 5, line 4, strike ''a semicolon'' and insert '' 'or 20 percent of such recipient's annual formula apportionment under sections 5307 and 5311 in the case where the service is acquired by contract;' ''.

SA 638. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, line 9, insert '' (including intercity passenger rail when used for the purpose of a daily commute)'' after ''transit ridership''.

SA 639. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION

SEC. —001. SHORT TITLE.

This title may be cited as the ''Safe Highways and Infrastructure Preservation Act''.

SEC. —002. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) RESTRICTED PROPERTY-CARRYING UNIT DEFINED.—Section 31111(a)(1) of title 49, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) RESTRICTED PROPERTY-CARRYING UNIT.—The term 'restricted property-carrying unit' means any trailer, semi-trailer, container, or other property-carrying unit that is longer than 53 feet.''.

(b) PROHIBITION ON OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS.—

(1) IN GENERAL.—Section 31111(b)(1)(C) of title 49, United States Code, is amended to read as follows:

''(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless the operation is specified on the list published under subsection (h);''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 270 days after the date of enactment of this Act.

(c) LIMITATIONS.—Section 31111 of title 49, United States Code, is amended by adding at the end the following:

''(h) RESTRICTED PROPERTY-CARRYING UNITS.—

''(1) APPLICABILITY OF PROHIBITION.—

''(A) IN GENERAL.—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of such unit is specified on the list published under paragraph (2).

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations specified on the list published under paragraph (2) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

''(C) FIRE-FIGHTING UNITS.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for fire-fighting.

''(2) LISTING OF RESTRICTED PROPERTY-CARRYING UNITS.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were authorized by State officials pursuant to State statute or regulation on June 1, 2005, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2005.

''(B) LIMITATION.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the unit at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

''(D) UPDATES.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

''(3) APPLICABILITY OF PROHIBITION.—The prohibition established by subsection (b)(1)(C) shall apply to any new designation made to the National Highway System and remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

''(4) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit if the restrictions or prohibitions are consistent with the requirements of this section and sections 31112 through 31114.''.

(d) ENFORCEMENT.—The second sentence of section 141(a) of title 23, United States Code, is amended by striking ''section 31112'' and inserting ''sections 31111 and 31112''.

SEC. —003. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 31112 of title 49, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f) NATIONAL HIGHWAY SYSTEM.—

''(1) GENERAL RULE.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than one property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

''(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State on June 1, 2005, or

''(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2005.

''(2) ADDITIONAL LIMITATIONS.—

''(A) APPLICABILITY OF STATE RESTRICTIONS.—A commercial motor vehicle combination whose operation in a State is not prohibited under paragraph (1) may continue to operate in the State on highways described in paragraph (1) only in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 2005. However, subject to regulations prescribed by the Secretary under subsection (h), the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 2005, for specific safety purposes and road construction.

''(B) ADDITIONAL STATE RESTRICTIONS.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a commercial motor vehicle combination subject to this section if the restrictions or prohibitions are consistent with this section and sections 31113(a), 31113(b), and 31114.

''(C) MINOR ADJUSTMENTS.—A State making a minor adjustment of a temporary and emergency nature as authorized by subparagraph (A) or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by subparagraph (B) shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

''(3) LIST OF STATE LENGTH LIMITATIONS.—

''(A) STATE SUBMISSIONS.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation

Act, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1). The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

''(B) PUBLICATION OF INTERIM LIST.—Not later than 90 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A). The Secretary shall review for accuracy all information submitted by a State under subparagraph (A) and shall solicit and consider public comment on the accuracy of the information.

''(C) LIMITATION.—A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2005.

''(D) PUBLICATION OF FINAL LIST.—Except as revised under this subparagraph or subparagraph (E), the list shall be published as final in the Federal Register not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) except as published on the list.

''(E) INACCURACIES.—On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D). If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.''.

(b) CONFORMING AMENDMENTS.—Section 31112 of title 49, United States Code, is amended—

(1) by inserting ''126(e) or'' before ''127(d)'' in paragraph (1) of subsection (g) (as redesignated by subsection (a) of this section);

(2) by inserting ''(or June 1, 2005, with respect to highways described in subsection (f)(1))'' after ''June 2, 1991'' in paragraph (3) of subsection (g) (as redesignated by subsection (a) of this section);

(3) by striking ''Not later than June 15, 1992, the Secretary'' and inserting ''The Secretary''; and

(4) by inserting ''or (f)'' after ''subsection (d)'' in paragraph (2) of subsection (h) (as redesignated by subsection (a) of this section).

SEC. —004. TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(h) GRANDFATHER RIGHTS.—

''(1) GENERAL RULE.—After the 270th day following the date of enactment of the Safe Highways and Infrastructure Preservation Act, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

''(2) LIST OF VEHICLES AND COMBINATIONS.—

''(A) PROCEEDING.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2005, could be lawfully operated within such State—

''(i) on July 1, 1956;

''(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

''(iii) under a special rule applicable to a State under subsection (a).

''(B) LIMITATIONS.—

''(i) ACTUAL AND LAWFUL OPERATIONS REQUIRED.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2005.

''(ii) STATE AUTHORITY NOT SUFFICIENT.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) as long as no such reduction results in a limitation that is less than an Interstate weight limit.

''(4) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2005.

''(5) INTERSTATE WEIGHT LIMIT DEFINED.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).''.

(b) CONFORMING AMENDMENT.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking ''the State determines''.

SEC. —005. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(i) NONDIVISIBLE LOADS.—

''(1) PROCEEDING.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

''(2) LIST OF COMMODITIES.—

''(A) IN GENERAL.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

''(B) LIMITATION.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

''(3) REGULATIONS.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

''(4) APPLICABILITY.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

''(5) STATE REQUIREMENTS.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

''(6) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.''.

SEC. —006. WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

''(j) WAIVERS DURING PERIODS OF NATIONAL EMERGENCY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense or Secretary of Homeland Security, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

''(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.''.

SEC. —007. VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 125 the following:

''§ 126. Vehicle weight limitations—National Highway System

''(a) NON-INTERSTATE HIGHWAYS ON NHS.—

''(1) IN GENERAL.—After the 270th day after the date of enactment of the Safe Highways and Infrastructure Preservation Act, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

''(2) EXISTING HIGHWAYS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2005, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be

lawfully operated on such segment on June 1, 2005.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

''(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2005, shall be the Interstate weight limit.

''(b) LISTING OF VEHICLES AND COMBINATIONS.—

''(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2005.

''(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

''(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2005, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

''(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2005.

''(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

''(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

''(5) UPDATES.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

''(c) APPLICABILITY OF LIMITATIONS.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

''(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

''(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

''(e) LONGER COMBINATION VEHICLES.—

''(1) PROHIBITION.—

''(A) IN GENERAL.—After the 270th day after the date of enactment of the Safe Highways and Infrastructure Preservation Act, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2005, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2005.

''(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

''(2) LISTING OF VEHICLES AND COMBINATIONS.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2005.

''(B) LIMITATION.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

''(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

''(D) UPDATES.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

''(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle if the restrictions or prohibitions are consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

''(f) MODEL SCHEDULE OF FINES.—

''(1) IN GENERAL.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

''(2) PURPOSE.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

''(3) ADOPTION BY STATES.—The Secretary shall encourage but not require States to adopt the schedule of fines.

''(g) DEFINITIONS.—In this section:

''(1) INTERSTATE WEIGHT LIMIT.—The term 'Interstate weight limit' has the meaning given that term in section 127(h).

''(2) LONGER COMBINATION VEHICLE.—The term 'longer combination vehicle' has the meaning given that term in section 127(d).''.

(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking ''the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System'' and inserting ''the National Highway System, including the Interstate System,''; and

(2) by striking ''section 127'' and inserting ''sections 126 and 127''.

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

''126. Vehicle weight limitations—National Highway System.''.

SA 640. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, insert the following:

SEC. 14____. VEHICLE WEIGHT LIMITATIONS, INTERSTATE ROUTE 94, NORTH DAKOTA.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: ''Notwithstanding any other provision of law, a vehicle that, with respect to weight distribution characteristics, could lawfully operate in North Dakota as of January 1, 2004, on United States Route 52 (including the United States Route 52 bypass in Jamestown, North Dakota), or on United States Route 281, may operate on Interstate Route 94 in the State of North Dakota, between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and United States Route 52 bypass (including interchanges) under the same conditions under which the vehicle operates in the State of North Dakota on United States Route 52 (including the United States Route 52 bypass) or United States Route 281.''.

SA 641. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, insert the following:

SEC. 14____. VEHICLE WEIGHT LIMITATIONS, INTERSTATE ROUTE 94, NORTH DAKOTA.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: ''Notwithstanding any other provision of law, a vehicle that, with respect to weight distribution characteristics, could lawfully operate in North Dakota as of January 1, 2004, on United States Route 52 (including the United States Route 52 bypass in Jamestown, North Dakota), or on United States Route 281, may operate on Interstate Route 94 in the State of North Dakota, between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and United States Route 52 bypass (including interchanges) under the same conditions under which the vehicle operates in the State of North Dakota on United States Route 52 (including the United States Route 52 bypass) or United States Route 281.''.

SA 642. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the

bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, insert the following:

SEC. ___. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

SA 643. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. ___. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

SA 644. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1814 and insert the following:

SEC. 1814. PARKING PILOT PROGRAMS. .

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

''SEC. 176. PARKING PILOT PROGRAMS.

''(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

''(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to increase the availability of, and information about, long-term parking for drivers of commercial motor vehicles on the National Highway System.

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments, giving preference to applicants that demonstrate the most severe shortage of commercial vehicle parking capacity on the corridor to be addressed.

''(B) NOTICE AND COMMENT.—Prior to allocating funds under this subsection to a particular project, the Secretary shall—

''(i) publish the application in the Federal Register;

''(ii) seek public comment on the proposed project for a period of not less than 90 days; and

''(iii) evaluate and consider all comments received concerning the proposed project.

''(C) CRITERIA.—In allocating funds under this subsection for the construction of safety rest areas, or for commercial motor vehicle parking facilities that are adjacent to commercial truck stops or travel plazas, the Secretary shall give priority to an applicant that—

''(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

''(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

''(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

''(D) REQUIREMENTS.—An applicant that applies for funds made available under this subsection for construction of safety rest areas, or for commercial motor vehicle parking facilities that are adjacent to commercial truck stops or travel plazas, shall include in the application an analysis of reasonable alternatives, including—

''(i) the impact of the availability of additional information to commercial vehicle drivers regarding the location and availability of parking throughout the corridor; and

''(ii) the extent to which private providers of parking for commercial vehicles are able to meet current and future commercial vehicle parking demands in the corridor.

''(3) USE OF ALLOCATED FUNDS.—

''(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

''(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

''(i) construction of safety rest areas that include parking for commercial motor vehicles;

''(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

''(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

''(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

''(v) construction of turnouts along the National Highway System for commercial motor vehicles;

''(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

''(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

''(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

''(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

''(6) FUNDING.—

''(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

''(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

''(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

''(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

''(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

''(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

''(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

''(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

''(3) USE OF ALLOCATED FUNDS.—

''(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

''(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

''(i) construction of corridor and fringe parking facilities;

''(ii) costs associated with the opening of facilities;

''(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

''(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

''(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

''(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

''(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

''(6) FUNDING.—

''(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section

1813(c)), is amended by adding at the end the following:

''176. Parking pilot programs.''.

SA 645. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 800, strike line 21 and all that follows through page 804, line 19, and insert the following:

''(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2009.—

''(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2009, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

''(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

''(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

''(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

''(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

''(B) MAXIMUM AMOUNTS IN FISCAL YEARS 2005 THROUGH 2007.—In each of the fiscal years 2005 through 2007—

''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

''(C) MAXIMUM AMOUNTS IN FISCAL YEARS 2008 AND 2009.—In each of the fiscal years 2008 and 2009—

''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.''; and

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SA 646. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11,100,000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4)): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(14)) and Sec. 1204): reduce by $235,000,000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47,010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500,000,000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348,000,000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

SA 647. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 718, between lines 18 and 19, insert the following:

(b) LIMITATION ON SUSPENSION.—Paragraph (2) of section 9503(c) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE.—Notwithstanding any other provision of this paragraph, the Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts—

''(i)(I) described in subparagraph (A)(i) with respect to claims filed for the periods ending after March 30, 2005, and before October 1, 2009, and

''(II) described in subparagraph (A)(ii) with respect to fuel used after March 30, 2005, and before October 1, 2009, and

''(ii) which the Secretary estimates are paid for fraudulent or false claims under sections 34, 6420, 6421, and 6427 which the Secretary will not be able to discover.''.

SA 648. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1069, after line 10, add the following:

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

SA 649. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(46) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.''.

SA 650. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1224, strike lines 6 through 10 and insert the following:

SEC. 7402. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this chapter, the terms ''carrier'', ''household goods'', ''motor carrier'', ''Secretary'', and ''transportation'' have the meaning given such terms in section 13102 of title 49, United States Code.

(b) ''HOUSEHOLD GOODS MOTOR CARRIER'' IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

''(12) HOUSEHOLD GOODS MOTOR CARRIER.—

''(A) IN GENERAL.—The term 'household goods motor carrier' means a motor carrier described in subparagraph (B) that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

''(i) Binding and nonbinding estimates.

''(ii) Inventorying.

''(iii) Protective packing and unpacking of individual items at personal residences.

''(iv) Loading and unloading at personal residences.

''(B) REGISTRATION REQUIREMENT.—A motor carrier is described in this subparagraph if its operations require it to register as a household goods motor carrier under—

''(i) section 13902 of this title; and

''(ii) regulations prescribed by the Secretary consistent with Federal agency determinations and decisions that were in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

''(C) LIMITED SERVICE EXCLUSION.—The term 'household goods motor carrier' does not include a motor carrier solely because it provides transportation of household goods

entirely packed in, and unpacked from, 1 or more containers or trailers by the individual shipper.''.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, or of this chapter, relating to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102(12) of title 49, United States Code).

SA 651. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 18___. VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM.

Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

''(12) ARKANSAS.—During the harvesting season of cotton in the State of Arkansas, as determined by the Governor of the State, the State of Arkansas may allow the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of cotton seed on—

''(A) United States Route 63 from Gilbert, Arkansas, at the Lake David interchange, to Jonesboro, Arkansas; and

''(B) Interstate Route 555, if that route is open to traffic.''.

SA 652. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. 15___. INVESTIGATION OF GASOLINE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation.

(b) REPORT.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(1) the results of the investigation; and

(2) any recommendations of the Federal Trade Commission.

SA 653. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. DESIGNATION OF HIGH PRIORITY CORRIDOR IN NORTH DAKOTA.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

''(46) The Central North American Trade Corridor from the North Dakota-South Dakota border north on United States Route 83 through Bismarck and Minot, North Dakota, to the international border with Canada.''.

SA 654. Mr. DORGAN (for himself, Mr. CONRAD, Mr. BURNS, Mr. THUNE, Mr. JOHNSON, Mr. NELSON of Nebraska, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. ___. DESIGNATION OF HIGH PRIORITY CORRIDOR IN SOUTH DAKOTA, NORTH DAKOTA, AND MONTANA.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

''(46) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.''.

SA 655. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION OF RENEWABLE ENERGY CREDIT.

Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2009''.

SA 656. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2009''

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 657. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2009''

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 658. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1240, line 6, strike ''that'' and all that follows through ''damage'' on page 1240, line 8.

SA 659. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for othered purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. DIESEL FUEL TAX EVASION REPORT.

Not later than 60 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on the availability of new technologies that can be employed to enhance collections of the excise tax imposed on diesel fuel and the plans of the Internal Revenue Service to employ such technologies.

SA 660. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for othered purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. ___. TRANSPORTATION INVESTMENT CREDITS.

Section 120(j)(1) of title 23, United States Code, is amended—

(1) by striking ''A State'' and inserting the following:

''(A) IN GENERAL.—A State''; and

(2) by striking the last sentence and inserting the following:

''(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—

''(i) DEFINITION OF FEDERAL FUNDS.—In this paragraph, the term 'Federal funds' does not include a loan of Federal funds, or any other financial assistance required to be repaid to the Federal Government.

''(ii) REDUCTION OF CREDIT.—For a project to build, improve, or maintain a highway, bridge, or tunnel used in interstate travel or commerce that receives assistance under this title, if a public, quasi-public, or private agency has built, improved, or maintained such a highway, bridge, or tunnel using Federal funds, a credit of the agency under subparagraph (A) shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was provided with Federal funds.''.

SA 661. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1803 and insert the following:

SEC. 1803. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Section 112(b) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) DESIGN-BUILD CONTRACTING.—

''(A) DEFINITION OF DESIGN-BUILD CONTRACT.—

''(i) IN GENERAL.—In this paragraph, the term 'design-build contract' means an agreement that provides for the design and construction of a project by a contractor.

''(ii) INCLUSIONS.—The term 'design-build contract' includes—

''(I) a franchise agreement; and

''(II) any other form of contract approved by the Secretary.

''(B) AWARD AND USE OF DESIGN-BUILD CONTRACTS.—A State transportation department or local transportation agency may—

''(i) award a design-build contract using any procurement process in accordance with State and local law; and

''(ii) use a design-build contract to develop a project under this chapter.

''(C) COMPLIANCE WITH NEPA.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), a State transportation department or local transportation agency may award a design-build contract under this paragraph, and conduct any action under the design-build contract, before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(ii) AWARDS.—A State transportation department or local transportation agency may award a design-build contract before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) if—

''(I) the State transportation department or local transportation agency submits to the Secretary a request for the award of a design-build contract;

''(II) the Secretary approves the request of the State transportation department or local transportation agency under subclause (I); and

''(III) authorization will be provided for the project after the State transportation department or local transportation agency complies with section 102 of that Act (42 U.S.C. 4332).

''(iii) PERMANENT IMPROVEMENTS.—A State transportation department or local transportation agency shall not carry out the final design of a permanent improvement under a design-build contract under this paragraph before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(D) EFFECT OF APPROVAL.—Approval by the Secretary of a request of a State transportation department or local transportation agency under subparagraph (C)(ii)(II) shall be considered to be a preliminary action that does not impact the environment.''.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall update regulations promulgated under section 1307(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 112 note; 112 Stat. 229) to implement the amendment made by subsection (a).

(2) REQUIREMENTS.—The updated regulations under paragraph (1)—

(A) shall allow a State transportation department or local transportation agency to use any procurement process in accordance with State and local law in awarding design-build contracts (including allowing unsolicited proposals, negotiated procurements, and multiple requests for final proposals);

(B) may require a State transportation department or local transportation agency to justify a sole source procurement or multiple requests for final proposals;

(C) may include best practices guidelines;

(D) shall not preclude State transportation departments and local transportation agencies from allowing the inclusion of alternative technical concepts in base proposals of design-build contractors; and

(E) if a design-build contractor is not authorized to proceed with the final design of a permanent improvement before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), shall not preclude State transportation departments and local transportation agencies from, before complying with section 102 of that Act—

(i) requesting a proposal document;

(ii) awarding a design-build contract; or

(iii) issuing a notice to proceed with preliminary design work under a design-build contract.

SA 662. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1802(c) and insert the following:

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

"§ 307. Contractor suspension and debarment policy

''(a) MANDATORY ENFORCEMENT POLICY.—Notwithstanding any other provision of law, the Secretary—

''(1) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

''(2) subject to approval by the Attorney General—

''(A) except as provided in subsection (b), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

''(B) may exclude nonaffiliated subsidiaries of a debarred business entity.

''(b) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under subsection (a) would be contrary to the national security of the United States, the Secretary—

''(1) may waive the debarment or suspension; and

''(2) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

''307. Contractor suspension and debarment policy.''.

SA 663. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 328(b) of title 23, United States Code (as amended by section 1513(a)), is amended by striking paragraph (1) and inserting the following:

''(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Texas and Oklahoma) to participate in the program.

SA 664. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, after the matter following line 21, add the following:

SEC. ___. LA ENTRADA AL PACIFICO CORRIDOR, TEXAS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

''(46) In the State of Texas, the La Entrada al Pacifico Corridor consisting of any portion of a highway in a corridor on 2 miles of either side of the center line of the highway and—

''(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

''(B) the segment of any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

''(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20;

''(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385;

''(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10; and

''(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.''.

SA 665. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 510(a)(4)(A) of title 23, United States Code (as added by section 2101(a)), is amended by striking ''subsection (b)'' and inserting ''subsection (b), including the Southwest Region University Transportation Center''.

SA 666. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Railroad Administration.

''(2) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(C) EXCLUSION.—The term 'eligible project costs' does not include costs incurred for a new station.

''(3) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(4) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity may apply to the Administrator for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental analysis in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Administrator shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Administrator shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Administrator.

''(5) SELECTION.—The Administrator shall select for Federal support for preconstruction planning any project that the Administrator determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL ANALYSES.—

''(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may submit the studies to the Administrator, to support an application for Federal funding to assist in—

''(A) preparing an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) CRITERIA FOR APPLICATIONS.—

''(A) IN GENERAL.—The Administrator shall—

''(i) establish criteria for Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Administrator shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Administrator determines that a MAGLEV project meets the criteria established under subparagraph (B), the Administrator may—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—A proposed owner of a MAGLEV project that has submitted a draft environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has refined planning for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Administrator for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the environmental analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND BUY AMERICA REQUIREMENTS.—Sections 5333(a) and 5323(j) of title 49 shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental analyses carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental analyses; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $12,000,000 for fiscal year 2005;

''(II) $6,000,000 for fiscal year 2006; and

''(III) $2,000,000 for each of fiscal years 2007 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental analyses under subsection (c)—

''(I) $41,500,000 for fiscal year 2005;

''(II) $25,000,000 for fiscal year 2006;

''(III) $37,000,000 for fiscal year 2007;

''(IV) $21,000,000 for fiscal year 2008; and

''(V) $9,000,000 for fiscal year 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $26,500,000 for fiscal year 2005;

''(II) $500,000,000 for fiscal year 2006;

''(III) $650,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $850,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $2,500,000 for fiscal year 2005;

''(II) $13,000,000 for fiscal year 2006;

''(III) $16,000,000 for fiscal year 2007;

''(IV) $8,000,000 for fiscal year 2008; and

''(V) $5,000,000 for fiscal year 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Administrator may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Administrator shall give priority funding to a MAGLEV project that—

''(A) has already met the criteria in section 1218 of the Transportation Equity Act for the 21st Century (112 Stat. 216) and has received funding prior to the date of enactment of this section as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Administrator to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the criteria set forth in section 1218 of the Transportation Equity Act for the 21st Century (112 Stat. 216) regarding public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

SA 667. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1234, beginning with line 8, strike through line 6 on page 1235 and insert the following:

''(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

''(c) AUTHORITY TO INTERVENE.—

''(1) IN GENERAL.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

''(A) be heard on all matters arising in such civil action;

''(B) file petitions for appeal of a decision in such civil action; and

''(C) be substituted, upon the filing of a motion with the court, for the State as parens patriae in the action.

''(2) SUBSTITUTION.—If the Secretary or the Board files a motion under paragraph (1)(C), the court shall—

''(A) grant the motion without further hearing or procedure;

''(B) substitute the Secretary or the Board, as appropriate, for the State as plaintiff; and

''(C) if requested by the Secretary or the Board, dismiss the State as a party to the action.

''(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

''(1) operate to convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

''(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

SA 668. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, add the following:

SEC. _____. SENSE OF THE SENATE IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND THE DANGERS OF DRINKING AND DRIVING.

(a) FINDINGS.—The Senate finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about drinking and driving and the way in which alcohol affects individual blood alcohol concentration levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of drinking and driving.

SA 669. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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 are—

(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 interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(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.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SA 670. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a)—

''(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(2) PHASEOUT.—

''(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling property placed in service after December 31, 2010, the limit otherwise applicable under paragraph (1) shall be reduced by—

''(i) 25 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2011, and

''(ii) 50 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2012.

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

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of

the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 671. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. _____. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT.

(a) FINDINGS.—Congress finds the following:

(1) Federal-aid highway programs provide State and local governments and other recipients substantial funds for projects that produce significant employment and job-training opportunities.

(2) Every $1,000,000,000 in Federal infrastructure investment creates an estimated 47,500 jobs.

(3) Jobs in transportation construction, including apprenticeship positions, typically pay more than twice the minimum wage, and include health and other benefits.

(4) Transportation projects provide the impetus for job training and employment opportunities for low income individuals residing in the area in which a transportation project is planned.

(5) Transportation projects can offer young people, particularly those who are economically disadvantaged, the opportunity to gain productive employment.

(6) The Alameda Corridor, a $2,400,000,000 transportation project, is an example of a transportation project that included a local hiring provision resulting in a full 30 percent of the project jobs being filled by locally hired and trained men and women.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons, including State, Federal, and local governments, community colleges, apprentice programs, local high schools, and other community based organizations that have an interest in improving the job skills of low-income individuals, to help leverage scarce training and community resources and to help ensure local participation in the building of transportation projects.

SA 672. Mr. NELSON (for himself, Mr. MARTINEZ, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Subtitle D of title I is amended by adding at the end the following:

SEC. 14___. LIVESTOCK TRAILER WEIGHT EXEMPTION.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: ''The States of Florida and Texas may issue, on payment of an annual fee of $200 for each livestock trailer, special permits to authorize the operation of vehicles with a gross vehicle weight of not more than 90,000 pounds for the hauling of livestock.''.

SA 673. Mr. AKAKA (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, strike lines 18 through 21 and insert the following:

(i) $310,000,000 for fiscal year 2005; and

(ii) $320,000,000 for each of fiscal years 2006 through 2009.

SA 674. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 628, line 23, strike ''$155'' and insert ''$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)''.

On page 629, line 5, strike ''2008'' and insert ''2009''.

On page 629, line 7, strike ''2007'' and insert ''2008''.

SA 675. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . CERTIFICATION OF VEHICLE EMISSION PERFORMANCE STANDARDS.

(a) VEHICLE EMISSION PERFORMANCE STANDARDS.—Section 13902 (a)(1) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and,

(2) by inserting after subparagraph (A) the following:

''(B) the requirement that a motor carrier certifies that, beginning in 2007, the vehicle or vehicles purchased in that year or afterwards and operated by the motor carrier comply with the heavy duty vehicle and engine emissions performance standards and related regulations established by the Administrator of the Environmental Protection Agency pursuant to section 202(a)(3) of the Clean Air Act (42 USC 7521(a)(3));''

(b) STUDY.—Within 180 days following the date of enactment of this Act, the Secretary of Transportation shall make recommendations to Congress on ways to ensure that trucks built prior to 2007 operating in the United States comply with all emissions performance standards of the Clean Air Act applicable to such engines at the time the engine was manufactured.

SA 676. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V insert the following:

SEC. ___. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

''(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A and inserting the following new item:

''Sec. 139B. Reimbursement for use of passenger automobile for charity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC.___. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SA 677. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. MODIFICATION OF EFFECTIVE DATE FOR CIVIL RIGHTS TAX RELIEF.

(a) IN GENERAL.—Section 703(c) of the American Jobs Creation Act of 2004 is amended by striking ''the date of the enactment of this Act'' and inserting ''December 31, 2002,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 678. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. ADVANCED TECHNOLOGIES.

Section 133(b) of title 23, United States Code (as amended by section 1813(b)), is amended by adding at the end the following:

''(20) Development of advanced motor vehicle technologies that will increase the fuel efficiency of motor vehicles or reduce individual vehicle emissions, as compared to applicable Federal or State regulations, on the condition that not more than 5 percent of the funds apportioned to the State for a fiscal year are used for that purpose.''.

SA 679. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, between lines 15 and 16, insert the following:

SEC. 1613. PUBLIC HEALTH PROTECTION.

Section 149 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking ''air quality standard; or'' and inserting '' air quality standard that would protect public health;'';

(ii) in clause (ii), by inserting ''that would protect public health'' after ''maintenance area''; and

(iii) by adding at the end the following:

''(ii) the improvement of public health by decreasing air pollutant emissions; or'';

(B) in paragraph (2), by inserting ''that would protect public health'' after ''air quality benefits'';

(C) in paragraph (3), by striking ''or through other factors'' and inserting ''advanced vehicle technologies, consumption of cleaner burning fuels, or other means''; and

(D) in paragraph (5), insert ''or dedicated non-fixed guideways'' after ''high occupancy vehicle lanes'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''If a State does not have'' and inserting the following:

''(A) IN GENERAL.—If a State does not have''; and

(ii) by adding at the end the following:

''(B) PRIORITY.—The State shall give priority to projects that—

''(i) promote deployment of advanced technology heavy-duty vehicles and clean fuels; and

''(ii) protect public health.''; and

(B) in paragraph (2)—

(i) by striking ''If a State has'' and inserting the following:

''(A) IN GENERAL.—If a State has''; and

(ii) by adding at the end the following:

''(B) PRIORITY.—The State shall give priority to projects that—

''(i) promote deployment of advanced technology heavy-duty vehicles and clean fuels; and

''(ii) protect public health.''; and

(3) in subsection (e)(4)(B), by inserting ''or advanced technology heavy-duty'' after ''alternative fueled''.

SA 680. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 16 and 17, insert the following:

(c) FERRY DISCRETIONARY GRANT PROGRAM.—For purposes of section 129(c) of title 23, United States Code, a private owner and operator that has entered into a license-fee arrangement with a public transportation authority to provide essential year-round public transportation services to the islands off of Cape Cod, Massachusetts shall be considered publicly operated and shall not be subject to paragraph (4) of such subsection.

SA 681. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies contained in or related to an emission reduction strategy developed by the State in accordance with subsection (c); and

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(c) RESPONSIBILITY OF STATES.—

(1) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(B) CMAQ RESOURCES.—The term ''CMAQ resources'' means resources available to a State to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code.

(C) DIESEL RETROFIT TECHNOLOGY.—The term ''diesel retrofit technology'' means a replacement, repowering, rebuilding, aftertreatment or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are—

(A) used in construction projects located in nonattainment and maintenance areas (as those terms are defined in section 101 of the Clean Air Act (42 U.S.C. 7401)); and

(B) funded, in whole or in part, under title 23, United States Code.

(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

(B) shall—

(i) consider guidance issued by the Administrator under paragraph (5);

(ii) limit technologies to those identified by the Administrator under paragraph (5);

(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

(iv) give special consideration to small businesses that participate in projects funded under title 23, United States Code;

(v) place priority on the use of—

(I) diesel retrofit technologies and activities;

(II) cost-effective strategies;

(III) financial incentives using CMAQ resources and State resources; and

(IV) strategies that maximize health benefits; and

(vi) not include any activities prohibited by paragraph (4).

(4) STATE LIMITATIONS.—Emission reduction strategies may not—

(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

(C) authorize the use of contract procedures that would discriminate between bidders on the basis of the bidder's existing equipment or existing vehicle emission technology.

(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

(D) options and recommendations for the structure and content of emission reduction strategies including—

(i) emission reduction performance criteria;

(ii) financial incentives that use CMAQ resources and State resources;

(iii) procedures to facilitate access by contractors to financial incentives;

(iv) contract incentives, allowances, and procedures;

(v) methods of voluntary emission reductions; and

(vi) other means that may be employed to reduce emissions from construction activities; and

(6) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the projects or programs described in section 149(b)(8) of title 23, United States Code.

(7) LIMITATION.—States shall give priority in distributing funds received for congestion mitigation and air quality projects and programs to finance diesel retrofit and cost-effective emission reduction activities identified by the States in emission reduction strategies developed under this subsection.

(8) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the clean Air Act (42 U.S.c. 7401 et seq.).

SA 682. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1266, beginning with line 13, strike through line 5 on page 1267 and insert the following:

''(c) COSTS-BENEFITS REQUIREMENT.—

''(1) IN GENERAL.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the re-located rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

''(A) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce if the rail line were not so relocated.

''(B) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

''(C) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

''(2) OTHER PROJECTS.—The requirements of paragraph (1) do not apply to grants awarded for community quality of life improvements under subsection (b) (1) (A) of this section.

SA 683. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1808(b) and insert the following:

(b) COALFIELDS EXPRESSWAY, VIRGINIA.—

(1) DESIGNATION.—Except as provided in paragrah (2), there is designated as an addition to the Appalachian Development Highway System in the State of Virginia Segment B of the Coalfields Expressway beginning at Corridor B near Pound, Virginia to Clintwood, Virginia.

(2) EXCLUSION OF PORTION OF CORRIDOR H.—The segment of Corridor H in the State of Virginia beginning at the West Virginia State line and ending at Interstate Route 81—

(A) shall be excluded from Corridor H;

(B) shall not be eligible for funding after the date of enactment of this Act; and

(C) may be included on a map of the Appalachian Development Highway System in the State of Virginia for purposes of continuity only.

(3) MODIFICATION OF MILEAGE.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking ''3,090'' and inserting ''3,088''.

(c) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code, is amended by inserting ''and the Appalachian development highway system program under subtitle IV of title 40'' after ''(other than the emergency relief program authorized by section 125''.

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

''170. Appalachian development highway system.''.

SA 684. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, line 13, strike ''$28,158,868'' and insert ''$70,000,000''.

SA 685. Mrs. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, strike lines 16 through 18, and insert the following:

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''$18,800,000 for each of fiscal years 1998 through 2002'' and inserting ''$30,000,000 for each of fiscal years 2005 through 2009''.

SA 686. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1606(a)(1)(B) and insert the following:

(B) SERIOUSLY DEGRADED.—The term ''seriously degraded'', with respect to high occupancy vehicle lanes, means that an high occupancy vehicle facility fails to maintain a minimum average operating speed of no less than 5 miles per hour below the speed limit, 90 percent of the time, over a consecutive 3-month period during the weekday peak travel periods.

SA 687. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 19, strike ''92'' and insert ''93.06''.

On page 53, strike lines 8 through 19 and insert the following:

''(B) for a State with a total population density of less than 30 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, the greater of—

On page 55, line 17, strike ''115'' and insert ''100''.

On page 56, line 18, strike ''91'' and insert ''93.06''.

On page 56, line 19, strike ''92'' and insert ''93.06''.

Beginning on page 56, strike line 20 and all that follows through page 57, line 16.

On page 57, line 17, strike ''(e)'' and insert ''(d)''.

On page 58, line 7, strike ''(f)'' and insert ''(e)''.

On page 58, line 11, strike ''(g)'' and insert ''(f)''.

SA 688. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, line 18, strike ''and''.

On page 162, line 22, strike the period and insert ''; and''.

On page 162, after line 22, insert the following:

(5) by adding at the end the following:

''(1) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, of full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.''.

SA 689. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 352, strike lines 5 through 9 and insert the following:

ation Area; and

(ii) $46,931,446 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois; and

(iii) $46,931,446 to the State of New York for planning, design, and construction of the Peace Bridge connecting Buffalo, New York with Canada.

SA 690. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title I, add the following:

SEC. 17___. HOURS OF SERVICE FOR OPERATORS OF HELICOPTER SUPPORT VEHICLES ENGAGED IN ACTIVE FIRE SUPPRESSION ACTIVITIES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended—

(1) in subsection (a), by adding at the end the following:

''(6) OPERATORS OF HELICOPTER SUPPORT VEHICLES ENGAGED IN ACTIVE FIRE SUPPRESSION ACTIVITIES.—

''(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Regulations described in paragraph (1) shall not apply to a driver of a vehicle engaged in the support of a helicopter engaged in active fire suppression activities.

''(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or an entity consisting of 2 or more States shall not enact or enforce any law, rule, regulation, or standard that imposes a requirement that is similar to a requirement contained in the regulations described in paragraph (1) on a driver of a vehicle engaged in the support of a helicopter engaged in active fire suppression activities.'';

(2) in subsection (b), by striking ''Nothing'' and inserting ''Except as provided in subsection (a)(6), nothing''; and

(3) in the first sentence of subsection (c), by striking ''paragraph (2)'' and inserting ''an exemption under paragraph (2) or (6) of subsection (a)''.

SA 691. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. WAIVER FOR NOT-FOR-HIRE FARM TRUCKS.

If a State provides clear and convincing evidence, based on objective safety data, that not-for-hire farm trucks used exclusively for transporting agricultural products to markets within 150 miles of the farms from which such products originated do not pose a significant safety risk, the Secretary of Transportation may waive, for purposes of such vehicles, any provision of—

(1) part B of subtitle IV of title 49, United States Code;

(2) part B of subtitle VI of title 49, United States Code; or

(3) chapter III of title 49, Code of Federal Regulations.

SA 692. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 325, strike line 9 and all that follows through page 326, line 16 and insert the following:

(3) in subsection (d)—

On page 335, line 3, strike ''(5)'' and insert ''(4)''.

SA 693. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ONE-YEAR DELAY IN THE TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) DELAY IN THE TRANSFER.—

(1) IN GENERAL.—Section 931(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398) is amended by striking ''Not earlier than July 1, 2005, and not later than October 1, 2005'' and inserting ''Not earlier than July 1, 2006, and not later than October 1, 2006''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of section 931(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Commissioner of Social Security and the Secretary of Health and Human Services, in implementing the transition plan for the transfer of responsibility for medicare appeals pursuant to section 931(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398), should ensure that—

(1) if a medicare beneficiary requests a hearing before an administrative law judge, such hearing shall be in-person unless such individual requests that the hearing be conducted using tele- or video conference technologies and the time frame for such a judge to decide an appeal is not different for hearings conducted in-person and hearings using tele- or video conference technologies;

(2) in providing for the geographic distribution of administrative law judges, there are a sufficient number of hearing sites to ensure adequate access to such judges by medicare beneficiaries and medicare providers; and

(3) in order to provide for the independence of administrative law judges from the Centers for Medicare & Medicaid Services and its contractors, such judges are bound only by applicable statutes, regulations, and rulings issued in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedures Act'') and are not required to give substantial deference to local coverage determinations, local medical review policies, or Centers for Medicare & Medicaid Services program guidance.

SA 694. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

''(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, _____, and _____, for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.'';

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

SEC.___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SA 697. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

SA 698. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. ___. ADVANCED TECHNOLOGY PROGRAM.

(a) REPEAL.—Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n) is repealed.

(b) LIMITATION ON USE OF FEDERAL FUNDS.—Notwithstanding any other provision of law, no Federal funds may be expended to carry out the Advanced Technology Program after the date of enactment of this Act.

SEC. ___. APPLIED RESEARCH FOR FOSSIL FUELS.

Notwithstanding any other provision of law, the Secretary of Energy shall not carry out any program that conducts, or provides assistance for, applied research for fossil fuels.

SEC. ___. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

The Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) is repealed.

SEC. ___. UNITED STATES TRAVEL AND TOURISM PROGRAM.

Section 210 of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 78) is repealed and no funds may be expended for the United States Travel and Tourism Promotion Program on or after the date of enactment of this Act.

SEC. ___. INTER-AMERICAN FOUNDATION.

(a) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f) is repealed.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—No funds may be expended for the Inter-American Foundation on or after the date enactment of this Act.

SA 699. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. INTER-AMERICAN FOUNDATION.

(a) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f) is repealed.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—No funds may be expended for the Inter-American Foundation on or after the date enactment of this Act.

SA 700. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. ___. APPLIED RESEARCH FOR FOSSIL FUELS.

Notwithstanding any other provision of law, the Secretary of Energy shall not carry out any program that conducts, or provides assistance for, applied research for fossil fuels.

SA 701. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADVANCED TECHNOLOGY PROGRAM.

(a) REPEAL.—Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n) is repealed.

(b) LIMITATION ON USE OF FEDERAL FUNDS.—Notwithstanding any other provision of law, no Federal funds may be expended to carry out the Advanced Technology Program after the date of enactment of this Act.

SA 702. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. UNITED STATES TRAVEL AND TOURISM PROGRAM.

Section 210 of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 78) is repealed and no funds may be expended for the United States Travel and Tourism Promotion Program on or after the date of enactment of this Act.

SA 703. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

The Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) is repealed.

SA 704. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 566, strike lines 2 through 9 and insert the following:

''(C) blast furnace slag aggregate;

''(D) silica fume;

''(E) foundry sand; and

''(F) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

SA 705. Ms. SNOWE (herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 24, add the following:

(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

SA 706. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 18___. VEHICLE WEIGHT LIMITATIONS IN MAINE.

Section 127(a) of title 23, United States Code, is amended in the last sentence by striking ''respect to that portion'' and all that follows through ''New Hampshire State line,'' and inserting ''respect to Interstate Routes 95, 195, 295, and 395 in the State of Maine,''.

SA 707. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 582, after line 25, add the following:

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

''(iv) in the case of liquefied petroleum gas and P Series Fuels, 18.3 cents per gallon,

''(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

''(vi) in the case of liquefied natural gas, any liquid fuel derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.''.

(2) TREATMENT OF ALTERNATIVE FUEL AS TAXABLE FUEL.—

(A) IN GENERAL.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking ''and'' at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting '', and'', and

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

''(D) alternative fuel.''.

(B) DEFINITION.—Section 4083(a) is amended by adding at the end the following new paragraph:

''(4) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

''(A) compressed or liquefied natural gas,

''(B) liquefied petroleum gas,

''(C) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

''(D) hydrogen,

''(E) any liquid fuel derived from coal (including peat), and

''(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) SPECIAL MOTOR FUELS.—

''(A) IN GENERAL.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil)—

''(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

''(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

''(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel if tax was imposed on such alternative fuel under section 4081 and the tax thereon was not credited or refunded.

''(C) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use.

''(D) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).''.

(B) Section 4041(b)(2) is amended by striking ''2007'' both places it appears and inserting ''2005''.

(C) Section 4041, as amended by section 5101 of this Act, is amended by striking subsection (m).

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended by striking ''plus'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

''(3) the alternative fuel credit, plus

''(4) the alternative fuel mixture credit.''.

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

''(d) ALTERNATIVE FUEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

''(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' has the meaning given such term by section 4083(a)(4), except such term does not include ethanol or methanol.

''(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

''(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

''(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

''(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

''(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.''.

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking ''**alcohol fuel and biodiesel**'' and inserting ''**certain alternative fuel**''.

(B) The table of sections for subchapter B of chapter 65 is amended by striking ''alcohol fuel and biodiesel'' in the item relating to section 6426 and inserting ''certain alternative fuel''.

(C) Section 6427(a) is amended by striking ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' and inserting ''section 4041(a)(2) or 4041(c)''.

(D) Section 6427(e) is amended—

(i) by inserting ''or the alternative fuel mixture credit'' after ''biodiesel mixture credit'' in paragraph (1),

(ii) by inserting ''or alternative fuel'' after ''section 40A(d)(2))'' in paragraph (2),

(iii) by striking ''and'' at the end of paragraph (3)(A),

(iv) by striking the period at the end of paragraph (3)(B),

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

''(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2)

or (e)(3)) sold or used after December 31, 2010.'', and

(vi) by striking ''OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES'' in the heading and inserting '', BIODIESEL, OR ALTERNATIVE FUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after December 31, 2005.

SA 708. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term ''eligible funds'' means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term ''eligible funds'' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term ''excess funds'' means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term ''inactive funds'' means—

(A) an obligated balance of Federal funds for a transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies to all eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

SA 709. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. ___. DESIGNATION OF HIGH PRIORITY CORRIDOR IN NEW YORK, VERMONT, NEW HAMPSHIRE, AND MAINE.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

''(46) The East-West Corridor, from Watertown, New York, continuing northeast through the States of New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.''.

SA 710. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 14___. VEHICLE WEIGHT LIMITATIONS ON THE MAINE TURNPIKE.

The last sentence of section 127(a) of title 23, United States, is amended by striking ''and 495''.

SA 711. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

Subtitle G—United States Tax Court Modernization

SEC. 5700. SHORT TITLE.

This title may be cited as the ''United States Tax Court Modernization Act''.

PART I—TAX COURT PROCEDURE

SEC. 5701. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 5702. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7436(c), and''.

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 5703. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United

States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 5704. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows ''petition'' and inserting a period.

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

SEC. 5705. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) LAW CLERKS AND SECRETARIES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

''(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 5706. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

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

PART II—TAX COURT PENSION AND COMPENSATION

SEC. 5711. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 20 percent of such average annual salary, divided by the number of such children.

''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 40 percent of such average annual salary, divided by the number of such children.

''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

''(3) TERMINATION OF ANNUITY.—

''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as

prescribed in subsection (n) before the judge's death, reduced by

''(B) the amount of such salary deductions that were actually made before the date of the judge's death.''.

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''.

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

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

''(i) DETERMINATIONS BY CHIEF JUDGE.—

''(1) DEPENDENCY AND DISABILITY.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''.

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

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

''(m) COMPUTATION OF ANNUITIES.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.''.

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''.

SEC. 5712. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 5713. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court and to any retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5714. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.

SEC. 5715. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 5716. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(k) THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

''(i) retires under subsection (b), or

''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

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

SEC. 5717. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5718. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

''(a) APPOINTMENT, TENURE, AND REMOVAL.—

''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for

incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

''(2) TREATMENT OF UNUSED LEAVE.—

''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

SEC. 5719. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

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

''(b) ELECTION.—

''(1) JUDGES.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

''(A) 6 months after the date of the enactment of this paragraph,

''(B) the date the judge takes office, or

''(C) the date the judge marries.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting ''**and magistrate judges**'' after ''**judges**''.

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

(B) in the last sentence, by striking ''subsections (a)(6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

SEC. 5720. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as

such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

''(C) retired pay under section 7447, or

''(D) retired pay under section 7296 of title 38, United States Code.

''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

''(i) PAYMENTS PURSUANT TO COURT ORDER.—

''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

''(n) LUMP-SUM PAYMENTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based

on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

''(2) SPOUSES AND FORMER SPOUSES.—

''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

''(i) if the service covered thereby aggregates 1 year or less, or

''(ii) for the fractional part of a month in the total service.

''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(3) UNFUNDED LIABILITY.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

''(ii) the balance in the Fund as of the date the unfunded liability is determined.

''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 5721 of the United States Tax Court Modernization Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 5721 of the United States Tax Court Modernization Act,

''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 5721 of the United States Tax Court Modernization Act, or

''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 5721 of the United States Tax Court Modernization Act.

''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 5721 of the United States Tax Court Modernization Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 5721. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this part, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code. Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 5722. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

''(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

''(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

''(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

''(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

''Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 5723. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect on the date of the enactment of this Act.

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, insert the following:

SEC. 1830. ANNUAL REPORT ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

SA 712. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 1 and 2, insert the following:

CHAPTER 1—GENERAL PROVISIONS

On page 297, between lines 9 and 10, insert the following:

CHAPTER 2—FUELS SECURITY

SEC. 1641. SHORT TITLE.

SHORT TITLE.—This chapter may be cited as the ''Fuels Security Act of 2005''.

Subchapter A—General Provisions

SEC. 1651. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ETHANOL.—

''(i) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(I) dedicated energy crops and trees;

''(II) wood and wood residues;

''(III) plants;

''(IV) grasses;

''(V) agricultural residues; and

''(VI) fibers.

''(ii) WASTE DERIVED ETHANOL.—The term 'waste derived ethanol' means ethanol derived from—

''(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

''(II) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes—

''(I) cellulosic biomass ethanol;

''(II) waste derived ethanol;

''(III) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

''(IV) any blending components derived from renewable fuel, except that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection.

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel specified in subparagraph (B).

''(ii) COMPLIANCE.—Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this subsection are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel.

''(iii) NO REGULATIONS.—If the Administrator does not promulgate the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

''Applicable volume of renewable fuel

Calendar year:	(In billions of gallons)
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0

''(ii) CALENDAR YEARS 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

''(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

''(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

''(iii) LIMITATION.—An increase in the applicable volume for a calendar year under clause (ii) shall be not less than the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce during the calendar year; and

''(I) the quotient obtained by dividing—

''(aa) 8,000,000,000; by

''(bb) the number of gallons of gasoline sold or introduced into commerce during calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2006 through 2011, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements under paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refiners, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations to any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11).

''(4) EQUIVALENCY.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) REGULATIONS.—The regulations promulgated to carry out this subsection shall provide for—

''(i) the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

''(ii) the generation of an appropriate amount of credits for biodiesel fuel; and

''(iii) if a small refinery notifies the Administrator that the small refinery waives the exemption provided by this subsection, the generation of credits by the small refinery beginning in the year following the notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the calendar year in which the credit was generated.

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions permitting any person that is unable to generate or purchase sufficient credits to meet the requirement under paragraph (2) to carry forward a renewables deficit if, for the calendar year following the year in which the renewables deficit is created—

''(i) the person achieves compliance with the renewables requirement under paragraph (2); and

''(ii) generates or purchases additional renewables credits to offset the renewables deficit of the preceding year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirements under paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirements under paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year;

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

''(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

''(D) PERIODS.—The 2 periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements under paragraph (2), in whole or in part, on a petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which a petition is received by the Administrator under subparagraph (A), the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove the petition.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate on the date that is 1 year after the date on which the waiver was granted, but may be

renewed by the Administrator, after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) SMALL REFINERIES.—

''(A) IN GENERAL.—Paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i).

''(B) STUDY.—Not later than December 31, 2008, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirements under paragraph (2) would impose a disproportionate economic hardship on small refineries.

''(C) SMALL REFINERIES AND ECONOMIC HARDSHIP.—For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for the small refinery for not less than 2 additional years.

''(D) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirements under paragraph (2) for the reason of disproportionate economic hardship.

''(ii) EVALUATION.—In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(E) CREDIT PROGRAM.—Paragraph (6)(A)(iii) shall apply to each small refinery that waives an exemption under this paragraph.

''(F) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (C).''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' and inserting ''(n), or (o)'' each place it appears; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' and inserting ''(n), and (o)'' each place it appears.

SEC. 1652. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

''(3) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of 'fleet' by subparagraphs (A) through (H) of section 301(9).''.

SEC. 1653. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m)(1) In order to improve the ability to evaluate the effectiveness of the renewable fuels mandate of the United States, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) In conducting the survey, the Administrator shall collect information both on a national and regional basis, including—

''(A) information on—

''(i) the quantity of renewable fuels produced;

''(ii) the quantity of renewable fuels blended;

''(iii) the quantity of renewable fuels imported; and

''(iv) the quantity of renewable fuels demanded; and

''(B) market price data.''.

Subchapter B—Federal Reformulated Fuels

SEC. 1661. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on the date that is 1 year after the date of enactment of this Act, except that the amendments shall take effect upon that date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)).

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITION OF PADD.—In this subparagraph, the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 2001 and 2002, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 2001 and 2002.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take

effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report under this subclause and for subsequent years.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2006, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations (or any successor regulations), to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) AUTHORITY OF ADMINISTRATOR.—Nothing in this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator of the Environmental Protection Agency before the date of enactment of this Act regarding—

(1) emissions of toxic air pollutants from motor vehicles; or

(2) the adjustment of standards applicable to a specific refinery or importer made under the prior regulations.

(e) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

''(11) DETERMINATION REGARDING A STATE PETITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, not later than 30 days after the date of enactment of this paragraph, the Administrator shall determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements under paragraph (2)(B).

''(B) APPROVAL.—If a determination under subparagraph (A) is not made by the date that is 30 days after the date of enactment of this paragraph, the petition shall be considered to be approved.''.

SEC. 1662. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether;

''(II) tertiary amyl methyl ether;

''(III) di-isopropyl ether;

''(IV) tertiary butyl alcohol;

''(V) other ethers and heavy alcohols, as determined by the Administrator;

''(VI) ethanol;

''(VII) iso-octane; and

''(VIII) alkylates;

''(ii) conduct a study on the effects on public health, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements otherwise applicable under sections 211(k)(1) and 211(k)(3); and

''(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of these studies.

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities including but not limited to National Energy Laboratories and institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

SEC. 1663. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) (as added by section 1651(a)(2)) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Fuels Security Act of 2005.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment, but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 1664. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) OZONE TRANSPORT REGION.—

''(i) APPLICATION OF PROHIBITION.—

''(I) IN GENERAL.—In addition to the provisions of subparagraph (A), upon the application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

''(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

''(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

''(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

''(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

''(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

''(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

''(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 1665. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking ''(C) A State'' and inserting the following:

''(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

''(i) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.''.

SEC. 1666. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 1667. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

SEC. 1668. REPORT ON RENEWABLE MOTOR FUEL.

Not later than January 1, 2007, the Secretary of Energy and the Secretary of Agriculture shall jointly prepare and submit to Congress a report containing recommendations for achieving, by January 1, 2025, at least 25 percent renewable fuel content (calculated on an average annual basis) for all gasoline sold or introduced into commerce in the United States.

SA 713. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, strike lines 1 through 9 and insert the following:

(2) in paragraph (2)—

(A) by striking ''If a State'' and inserting the following:

''(A) IN GENERAL.—If a State'';

(B) by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(i) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(ii) is eligible under the surface transportation program under section 133.''; and

(C) by adding at the end the following:

''(B) OPERATING ASSISTANCE FOR PUBLIC TRANSIT PROVIDERS AND TRANSPORTATION MANAGEMENT ASSOCIATIONS.—In addition to other eligible uses, a State may use funds apportioned under section 104(b)(2)(D) to provide operating assistance for public transit providers or transportation management associations that serve a nonattainment or maintenance area, if a plan is in place for the project that annually reduces the amount of operating assistance required.''.

SA 714. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1281, between lines 2 and 3, insert the following:

SEC. 76___. FEDERAL SCHOOL BUS DRIVER QUALIFICATIONS.

The effective date of section 383.123 of volume 49, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall be September 30, 2006.

SA 715. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 14___. SAFETY BELT USE RATES.

(a) DEFINITIONS.—In this section:

(1) PRIMARY SAFETY BELT LAW.—The term ''primary safety belt law'' means a law that authorizes a law enforcement officer to issue a citation for the failure of the driver of, or any passenger in, a motor vehicle to wear a safety belt as required by State law.

(2) SAFETY BELT USE RATE.—The term ''safety belt use rate'' means, as determined by the State for the most recent fiscal year or calendar year for which statistics are made available through any method, including observational surveys conducted by the State agency that has jurisdiction over highway safety, the ratio that—

(A) the number of drivers and front seat passengers of motor vehicles in the State that use safety belts; bears to

(B) the number of all drivers and front seat passengers of motor vehicles registered in the State.

(b) WITHHOLDING OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold a percentage, as described in paragraph (2), of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, if, by October 1 of a given year, the State does not—

(A) have in effect a primary safety belt law; or

(B) demonstrate to the Secretary that the safety belt use rate in the State is at least 60 percent.

(2) PERCENTAGES.—The percentage referred to in paragraph (1) shall be—

(A) for fiscal year 2007, 2 percent; and

(B) for fiscal year 2008 and each fiscal year thereafter, 4 percent.

(c) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 60 percent, the apportionment to the State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, shall be increased by the amount withheld under subsection (b).

(d) FAILURE TO ACT.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 60 percent, the State shall forfeit the amount withheld under subsection (b).

SA 716. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 14___. SAFETY BELT USE RATES.

(a) DEFINITIONS.—In this section:

(1) PRIMARY SAFETY BELT LAW.—The term ''primary safety belt law'' means a law that authorizes a law enforcement officer to issue a citation for the failure of the driver of, or any passenger in, a motor vehicle to wear a safety belt as required by State law.

(2) SAFETY BELT USE RATE.—The term ''safety belt use rate'' means, as determined by the State for the most recent fiscal year or calendar year for which statistics are made available through any method, including observational surveys conducted by the State agency that has jurisdiction over highway safety, the ratio that—

(A) the number of drivers and front seat passengers of motor vehicles in the State that use safety belts; bears to

(B) the number of all drivers and front seat passengers of motor vehicles registered in the State.

(b) WITHHOLDING OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold a percentage, as described in paragraph (2), of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) or

section 144 of title 23, United States Code, if, by October 1 of a given year, the State does not—

(A) have in effect a primary safety belt law; or

(B) demonstrate to the Secretary that the safety belt use rate in the State is at least 60 percent.

(2) PERCENTAGES.—The percentage referred to in paragraph (1) shall be—

(A) for fiscal year 2007, 2 percent; and

(B) for fiscal year 2008 and each fiscal year thereafter, 4 percent.

(c) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 60 percent, the apportionment to the State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, shall be increased by the amount withheld under subsection (b).

(d) FAILURE TO ACT.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 60 percent, the State shall forfeit the amount withheld under subsection (b).

SA 717. Mr. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 10, insert ''and'' at the end.

On page 52, line 12, strike ''; and'' and insert a period.

On page 52, strike lines 13 through 15.

SA 718. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 944, after line 21 insert the following:

SEC. ___. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

''(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

''(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

''(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.''.

SA 719. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

Section 105 of title 23, United States Code (as amended by section 1104(a)), is amended by redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following:

''(g) FURTHER ADJUSTMENT.—The Secretary shall reduce any funds allocated to a State under this subsection by an amount equal to the amount of any discretionary allocation made to the State under an annual appropriations Act (including explanatory material) from a program funded by the Highway Trust Fund (other than the Mass Transit account), or any other direct appropriation from the Highway Trust Fund (other than the Mass Transit account) received by the State or an entity located in the State, during the preceding fiscal year.

SA 720. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

At the end of chapter 3 of subtitle E of title I, insert the following:

SEC. ___. SENSE OF CONGRESS RELATING TO PROJECT EARMARKS.

(a) FINDINGS.—Congress finds that—

(1) the House of Representatives adopted a rule in 1914 stating that it shall not be in order for any bill providing general legislation with respect to roads to contain any provision for any specific road;

(2) diverting funds to low-priority earmarks diminishes the ability of States and local communities to establish priorities and address mobility problems;

(3) the Government Accountability Office has reported that demonstration projects reviewed were not considered by State and regional transportation officials as critical to their transportation needs, and more than half of the projects reviewed were not included in State and local transportation plans;

(4) some earmarks have nothing to do with transportation and may worsen congestion by diverting scarce resources from higher priorities;

(5) the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) contained 10 earmarks at a cost of $385,925,000;

(6) the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132) contained 157 projects at a cost of $1,416,000,000;

(7) the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) contained 538 projects at a cost of $6,082,873,000;

(8) the Transportation Equity Act for the 21st Century (112 Stat. 107) contained 1,851 projects at a cost of $9,359,850,000;

(9) annual transportation appropriations Acts demonstrate the same trend in increasing earmarking of projects;

(10) the funding earmarked for many projects does not cover the full cost of the project and requires State and local communities to cover the unfunded costs; and

(11) funding of earmarked projects can have a dramatic effect on the rate of return that a State receives on its contributions to the Highway Trust Fund.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 should not include project earmarks;

(2) if earmarked projects are included, the projects should be included within the funding that a State would otherwise receive so as not to penalize other States; and

(3) any earmarked projects should be included in the funding equity provisions of the next surface transportation Act so that the projects do not adversely affect the rate of return that a State receives from its contributions to the Highway Trust Fund.

SA 721. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 1091, line 17, strike ''$1,000,000,000'' and insert ''$1,000,000''.

SA 722. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 630, line 8, insert ''and shall immediately propose appropriate exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50 percent,'' after ''taxes,''.

On page 631, line 7, insert '', except that the Secretary shall report and take action under subsection (a)(1) not later than July 1, 2006'' before the period at the end.

SA 723. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, line 9, insert '' (including intercity passenger rail when used for the purpose of a daily commute)'' after ''transit ridership''.

SA 724. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 16 and all that follows through page 58, line 11, and insert the following:

''(b) STATE PERCENTAGE.—

''(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

''(A) 93.06 percent of the quotient obtained by dividing—

''(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

''(ii) the estimated tax payments attributable to highway users in all States paid

into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

''(B) for a State with a total population density of less than 30 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, the greater of—

''(i) the percentage under paragraph (1); or

''(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

''(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005)—

''(A) the Interstate maintenance program under section 119;

''(B) the national highway system program under section 103;

''(C) the bridge program under section 144;

''(D) the surface transportation program under section 133;

''(E) the recreational trails program under section 206;

''(F) the high priority projects program under section 117;

''(G) the minimum guarantee provided under this section;

''(H) revenue aligned budget authority amounts provided under section 110;

''(I) the congestion mitigation and air quality improvement program under section 149;

''(J) the Appalachian development highway system program under subtitle IV of title 40; and

''(K) metropolitan planning programs under section 104(f).

''(c) SPECIAL RULES.—

''(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 100 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

''(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(3) MINIMUM SHARE OF TAX PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the percentage specified in subparagraph (B) of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(B) PERCENTAGES.—The percentages referred to in subparagraph (A) are—

''(i) for fiscal year 2005, 90.5 percent; and

''(ii) for each of fiscal years 2006 through 2009, 93.06 percent.

''(d) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

''(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

''(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

''(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There

SA 725. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting '', and improvements to streets and roads providing access to,'' after ''along''.

SA 726. Mr. INHOFE (for himself, Mr. BAYH, Mr. WARNER, Mr. JEFFORDS, Mr. LUGAR, Mrs. CLINTON, Mr. CHAFEE, Mr. OBAMA, Ms. LANDRIEU, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term ''clean school bus'' means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''eligible recipient'' means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term ''retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement or retrofit (including repowering, aftertreatment, and remanufactured engines) of certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses; and

(ii) to install retrofit technologies.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

SA 727. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 400, strike line 22 and all that follows through page 403, line 4 and insert the following:

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(3) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning given that term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State, in consultation with the Administrator, shall annually survey or otherwise compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State, and shall notify the Secretary in writing of the percentage of such small business concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM LIST COMPILATION.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall establish minimum uniform procedures to be used by State governments in compiling the list required by subsection (c).

(2) UNIFORM PROCEDURES.—Minimum uniform procedures required under paragraph (1) shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, type of work preferred, and any other criteria recommended by the Administrator.

(3) REGISTRATION REQUIRED.—No small business concern may be included on the list required by subsection (c) unless it first registers in the Central Contractor Registration database.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SA 728. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 propoosed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike lines 10 through 15 and insert the following:

''under section 150; and

(M) the rail-highway grade crossing program under section 130.''

SA 729. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1069, after line 10, add the following:

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

SA 730. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUTER RAIL SERVICE.

(a) IN GENERAL.—The Federal Transit Administration shall approve final engineering and construction for projects, which were provided funding under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998, and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note), in the absence of an access agreement with the owner of the railroad right of way.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and the project authorized under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998.

SA 731. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment

intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUTER RAIL SERVICE.

(a) IN GENERAL.—The Massachusetts Bay Transportation Authority is authorized to operate commuter rail service south of milepost 185 of the Northeast Corridor under the terms an dconditions established under section 24904(a)(6) of title 49, United States Code.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note).

SA 732. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, add the following:

SEC. 1411. TEEN DRIVING SAFETY.

(a) SHORT TITLE.—This section may be cited as the ''Safe Teen and Novice Driver Uniform Protection Act of 2005'' or the ''STANDUP Act''.

(b) FINDINGS.—Congress finds the following:

(1) The National Transportation Safety Board has reported that—

(A) in 2002, teen drivers, which constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes;

(B) motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age;

(C) between 1994 and 2003, almost 64,000 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 per week; and

(D) in 2003—

(i) 3,657 American drivers between 15 and 20 years of age were killed in motor vehicle crashes;

(ii) 300,000 Americans between 15 and 20 years of age were injured in motor vehicle crashes; and

(iii) 7,884 American drivers between 15 and 20 years of age were involved in fatal crashes, resulting in 9,088 total fatalities, a 5 percent increase since 1993.

(2) Though only 20 percent of driving by young drivers occurs at night, over 50 percent of the motor vehicle crash fatalities involving young drivers occur at night.

(3) The National Highway Traffic Safety Administration has reported that—

(A) 6,300,000 motor vehicle crashes claimed the lives of nearly 43,000 Americans in 2003 and injured almost 3,000,000 more Americans;

(B) teen drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(C) drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(4) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(5) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among young drivers between the ages of 15 and 18, compared with 1995, according to the Insurance Institute for Highway Safety.

(6) The Journal of the American Medical Association reports that crashes involving 16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(7) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(8) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(9) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teen passengers in a car with a teen driver and supervised driving during high-risk driving periods, such as night.

(c) STATE GRADUATED DRIVER LICENSING LAWS.—

(1) MINIMUM REQUIREMENTS.—A State is in compliance with this subsection if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(A) a 3-stage licensing process, including a learner's permit stage and an intermediate stage before granting an unrestricted driver's license;

(B) a prohibition of meaningful duration on nighttime driving during the learner's permit and intermediate stages;

(C) a prohibition, during the intermediate stage, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle; and

(D) any other requirement that the Secretary of Transportation (referred to in this section as the ''Secretary'') may require, including—

(i) a learner's permit stage of at least 6 months;

(ii) an intermediate stage of at least 6 months;

(iii) for novice drivers in the learner's permit stage—

(I) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(II) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(iv) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(2) RULEMAKING.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this subsection.

(d) INCENTIVE GRANTS.—

(1) IN GENERAL.—For each of the first 3 fiscal years following the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with subsection (c)(1) on or before the first day of that fiscal year that submits an application under paragraph (2).

(2) APPLICATION.—Any State desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with subsection (c)(1).

(3) GRANTS.—For each fiscal year described in paragraph (1), amounts appropriated to carry out this subsection shall be apportioned to each State in compliance with subsection (c)(1) in an amount determined by multiplying—

(A) the amount appropriated to carry out this subsection for such fiscal year; by

(B) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(4) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used for—

(A) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(B) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(C) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 out of the Highway Trust Fund (other than the Mass Transit Account) for each of the fiscal years 2005 through 2009 to carry out this subsection.

(e) TRANSFERRING OF FUNDS FOR NON-COMPLIANCE.—

(1) FISCAL YEAR 2010.—The Secretary shall transfer 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on October 1, 2009.

(2) FISCAL YEAR 2011.—The Secretary shall transfer 2 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on October 1, 2010.

(3) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall transfer 3 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning

with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on the first day of such fiscal year.

SA 733. Mr. ALEXANDER (for himself and Mr. GRAHAM, Mr. BURR, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, strike lines 18 through 21, and insert the following:

(i) $310,000,000 for fiscal year 2005; and

(ii) $320,000,000 for each of fiscal years 2006 through 2009.

The amounts provided for under section 2001(a)(1)(A) (relating to surface transportation research) shall be reduced by $19,638,742 for fiscal year 2005, and $19,638,742 for each of fiscal years 2006 through 2009.

SA 734. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. REPORT ON USE OF FUNDS TO REDUCE OIL AND FUEL CONSUMPTION.

(a) IN GENERAL.—Not later than December 1, 2005, and annually thereafter, each State and metropolitan planning organization that serves a population of 200,000 or more shall make available to the public, using the Internet and other means commonly used to inform the public under this Act, a report that describes where the documentation of materials assembled in the project development process anticipated fuel and/or cost saving the ways in which the planned use of Federal funds made available under this Act to the State or metropolitan planning organization for the preceding fiscal year will—

(1) reduce the demand for gasoline and diesel fuels; and

(2) lower household transportation expenditures.

(b) INFORMATION, DATA, AND TECHNICAL ASSISTANCE.—The Secretary, with assistance from the Bureau of Transportation Statistics and other Federal agencies, shall provide to States and metropolitan planning organizations any information, data, and technical assistance that would assist the States and metropolitan planning organizations in preparing the annual reports under subsection (a).

(c) INTERIM REPORT.—Not later than September 30, 2007, the Secretary shall submit to Congress a report that describes any cumulative savings in fuel, the most effective fuel savings measures, and any other benefits identified by the States and metropolitan planning organizations, from the use of Federal funds made available under this Act during each of fiscal years 2006 and 2007.

SA 735. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2009''

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 736. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2009''

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described

in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 737. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 38, line 8, strike ''$9,386,289'' and insert ''$8,386,289''.

On page 327, line 18, strike ''under section 204''.

On page 417, line 24, strike ''209'' and insert ''2009''.

On page 418, line 13, strike ''$2,000,000'' and insert ''$3,000,000''.

On page 558, line 17, insert ''and Boating'' before ''Trust''.

On page 558, line 23, strike ''2004'' and insert ''2005''.

On page 633, line 15, strike ''by all States''.

On page 652, line 23, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

''(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.''.

On page 900, line 18, strike ''and''.

On page 900, line 22, strike the period and insert ''; and''.

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

''(l) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.''.

On page 944, after line 21, insert the following:

SEC. ___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC. ___. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

''(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

''(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

''(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.''.

On page 1291, strike lines 12 through 16 and insert the following:
(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

SA 738. Mr. KYL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Insert new section:

"SEC. 7130. TECHNICAL CORRECTION OF RIGHTS AND REMEDIES PROVISIONS.

(a) Section 14704 (Rights and remedies of persons injured by carriers or brokers) is amended as follows:
(1) In subsection (a)—
(A) by striking 'IN GENERAL' and all that follows through 'injured' and substituting 'ENFORCEMENT OF ORDER-A person injured'; and
(B) by redesignating paragraph (2) as subsection (b)(2);
(2) In subsection (b), by striking 'Liability and damages' and all that follows through 'A carrier' and substituting 'LIABILITY AND DAMAGES-(1) A carrier'; and
(3) In subsection (d)(1), by striking 'under subsection (b)' and substituting 'under subsection (c)(2)(B)'.
(b) Section 14705 (Limitations on actions by and against carriers) is amended as follows:
(1) In subsection (c), by striking 'file' and all that follows through 'section 14704(b)' and substituting 'begin a civil action to recover damages under section 14704(b)(2)'; and
(2) In subsection (d), by striking 'under subsections (b) and (c) of this section' and substituting 'under subsection (b) of this section'.
This section shall apply to all civil actions pending or commenced in any court on or after its date of enactment.''

SA 739. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On Page 69, Line 15, add a new subsection 6009(h),
(h) CONTRACTED PARATRANSIT PILOT.—
(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.
(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this section

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SA 740. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 1291, strike lines 12 through 16 and insert the following:
(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

SA 741. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 872, strike line 24, and insert the following:

tives.

''(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.''.

SA 742. Mr. INHOFE (for Mr. TALENT (for himself and Mr. DODD)) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

At the end of subtitle H of title I, add the following:

SEC. 18____. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

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 Wednesday, May 11, 2005 at 2:30 p.m., in closed session to mark up the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 11, 2005, at 10 a.m., on Spyware.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 10 a.m.

The purpose of the hearing is to receive testimony on S. 895 a bill to direct the Secretary of the Interior to establish a rural water supply program in the reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 2:30 p.m., to hold a hearing on U.S.-E.U. Regulatory Cooperation on Emerging Technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 11, 2005, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct an oversight hearing on Federal Recognition of Indian Tribes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, May 11, 2005, at 9:30 a.m., in SD226.

Agenda

I. Bills

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. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine.]

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 May 11, 2005, at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON BIOTERRORISM PREPAREDNESS AND PUBLIC HEALTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Bioterrorism Preparedness and Public Health, be authorized to hold a hearing during the session of the Senate on Wednesday, May 11, 2005, at 2 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 10 a.m. in closed session to markup the personnel programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 2 p.m.

The purpose of the hearing is to receive testimony on S. 100, to authorize the exchange of certain land in the state of Colorado; S. 235 and H.R. 816, to direct the Secretary of Agriculture to sell certain parcels of federal land in Carson City and Douglas County, NV; S. 404, to make a technical correction relating to the land conveyance authorized by Public Law 108–67; S. 741, to provide for the disposal of certain forest service administrative sites in the State of Oregon, and for other purposes; S. 761, to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes; and H.R. 486, to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, NM, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 11:30 a.m. in closed session to mark up the readiness and management support programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 9 a.m. in closed session to mark up the strategic forces programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: No. 76, Maria Cino, to be Deputy Secretary of Transportation. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF TRANSPORTATION

Maria Cino, of Virginia, to be Deputy Secretary of Transportation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 989

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 989) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Mr. MCCONNELL. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

ORDERS FOR THURSDAY, MAY 12, 2005

Mr. MCCONNELL. Mr. President and Members of the Senate, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, May 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, the next 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 3, the highway bill, and that there be 60 minutes of debate equally divided between the chairman and ranking member or their designees prior to the vote on invoking cloture on the pending substitute amendment.

I further ask unanimous consent that Senators have until 10:30 a.m. to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the highway bill. We will then have 60 minutes for debate before the cloture vote on the pending substitute. It is my hope that cloture will be invoked so we can move closer toward completing our work on this important legislation. Following the vote, we will continue working through whatever amendments are left. A number of amendments have indeed been filed, and Senators who wish to offer amendments should contact the managers at once. Senators should expect rollcall votes throughout the day in relation to amendments to the bill.

Again, it is our intention to complete action on this important legislation this week. Senators should expect busy days for the remainder of the week and are certainly asked to plan accordingly.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Therefore, Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate

stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Thursday, May 12, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 2005:

DEPARTMENT OF THE INTERIOR

MARK A. LIMBAUGH, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE BENNETT WILLIAM RALEY, RESIGNED.

DEPARTMENT OF STATE

PAMELA E. BRIDGEWATER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

WILLIAM ALAN EATON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE AN UNDER SECRETARY OF STATE (MANAGEMENT), VICE GRANT S. GREEN, JR., RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate: Wednesday, May 11, 2005:

DEPARTMENT OF TRANSPORTATION

MARIA CINO, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO ART WEINTRAUB

HON. MAURICE D. HINCHEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HINCHEY. Mr. Speaker, I rise today to honor Arthur E. Weintraub for his distinguished professional career, spanning nearly five decades. As Art prepares to retire from his position as President of the Northern Metropolitan Hospital Association, I would like to recognize and thank him for his tremendous leadership in the Hudson Valley region of New York, including his more than 23 years of service to this important regional hospital organization. Prior to this position, Art worked as Executive Director of the Hudson Valley Health Systems Agency, and earlier as Senior Vice-President of Mid-Hudson Pattern for Progress. Before moving to the Hudson Valley, Art also worked with the U.S. Army Corps of Engineers and later held a senior planning position with the Tri-State Regional Planning Commission. Art's broad expertise in regional planning and health care policy and management have made him an invaluable resource to our region and to the many hospitals and communities that are served by Normet.

Over the course of more than two decades, Art has skillfully balanced the interests of our local community hospitals in a seven-county area of the Hudson Valley, working to find common ground among institutions with a wide array of challenges and in some cases, competition among themselves. Through Art's careful and persistent efforts, Normet has served as an effective advocate to help our public hospitals meet serious challenges and maintain their financial stability in a quickly changing and demanding environment. Under Art's leadership, Normet has promoted important public policy initiatives that improve and strengthen our regional hospitals, helping to ensure the continued availability of quality health care services for the fast growing Hudson Valley region.

Art has received numerous honors over his career including being named a National Endowment for the Humanities Fellow for study at Princeton University in 1977. He has been honored by the American Red Cross, the Arthritis Foundation, the Greater Hudson Valley Family Health Center, area chambers of commerce and a host of community service organizations. In 1997, he was selected national chairman of the U.S. Conference of Metropolitan Hospital Associations, and in 2004 received the Award of Distinction as the Hudson Valley Healthcare Executive of the Year.

In addition to his leadership at Normet, Art has volunteered a great deal of time and energy to improving our region. Recently, Art was appointed by the U.S. Secretary of Veterans Affairs to an advisory panel for the VA Campuses at Montrose and Castle Point. Over the years, Art has served in a variety of community service positions, including as president of the Newburgh Consolidated District Board of Education and as co-chair of the Community Partnership for a Healthy Westchester Task Force. He has served as an officer on the governing boards of numerous organizations and institutions, including St. Luke's Hospital, the American Health Planning Association, Westchester Health Foundation, Mid-Hudson Pattern for Progress, Pace University Nursing School and Law School Health Advisory Boards, Business School Advisory Board of SUNY New Paltz, Hudson Valley Technology Development Center, Greater Hudson Valley Coordinating Council, Metropolitan Transportation Authority Management Advisory Committee, Orange County Charter Review Commission, Orange County Child Study Center Advisory Board and Congregation Agudas Israel. He is also a Charter Member of the American Institute of Certified Planners.

Art received his Bachelor's Degree from Hunter College, and a Masters Degree from New York University's Graduate School of Public Administration. He also completed the Executive Program in Health Policy and Management at Harvard University's School of Public Health. Art currently is an adjunct professor at the New School University's Graduate School of Management, and has held faculty appointments at New York Medical College and Vassar College. He has had numerous articles on health and environmental policy issues published in professional journals.

In addition to these numerous professional credentials, it must be noted that Art is personally regarded as a friend to many of us in the Hudson Valley. He inspires great loyalty in the members of his association and affection from the countless others with whom he has worked over the years, including many of my colleagues in the New York congressional delegation. He will be sorely missed by those of us who have had the pleasure of working with him.

Mr. Speaker, I am delighted to congratulate Art Weintraub and his family on his upcoming retirement after so many years of service to the Hudson Valley Region. I would like to take this opportunity to offer my very best wishes to Art for a healthy and happy retirement along with my deep appreciation for his vision, dedication and hard work over his impressive career.

SUPPORTING GOALS AND IDEALS OF NATIONAL HEPATITIS B AWARENESS WEEK

SPEECH OF
HON. TAMMY BALDWIN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Thursday, May 5, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to express my support for increased awareness and education around the potentially life-threatening disease, hepatitis B. Hepatitis B is the most common liver infection in the world, and approximately 5,000 Americans will die from complications of this disease in 2005.

The hepatitis B virus is extremely infectious. In fact, it is 100 times more infectious than the HIV virus. Twelve million people in the United States are already infected, and an additional 100,000 more will become infected this year. In my home state of Wisconsin, nearly 600 cases of hepatitis B are reported each year.

This disease is easily transmittable through blood and blood products, bodily fluid, from mother to newborn, unprotected sex, and intravenous drug use. Furthermore, this disease is especially dangerous because many people are completely unaware that they may have come into contact with it until they develop more serious complications such as cirrhosis of the liver or liver cancer. Less than ten percent of Americans suffering from hepatitis B are receiving proper treatment for their disease.

Last week, I was proud to join my colleagues in supporting House Resolution 250, Supporting the Goals and Ideals of National Hepatitis B Awareness Week. Though vaccinations, increased awareness and education initiatives surrounding hepatitis B, this disease is largely preventable. During the week, community events across the country will bring together patients, public health advocates, physicians, and at risk populations to increase awareness and bolster education efforts on preventive measures and disease management.

As we recognize National Hepatitis B Awareness Week, I am hopeful that we can join together and work towards an end to this life-threatening disease.

SUPPORTING GOALS AND IDEALS OF A ROTARY INTERNATIONAL DAY

SPEECH OF
HON. RAHM EMANUEL
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. EMANUEL. Madam Speaker, I rise today in strong support of H. Res. 142, honoring Rotary International on the occasion of the organization's one hundred year anniversary. I am proud to note that the Rotary Club was founded in 1905 by Paul P. Harris in my hometown of Chicago, Illinois. Over the past century, the Rotary Club has grown into one of the largest nonprofit organizations in the world.

Rotary's Membership includes 1.2 million professional and business leaders who belong to 31,000 clubs in over 165 countries. These members adhere to the Rotary's motto, "Service Above Self," through community service projects, high moral conduct, and promotion of international good will.

In 1985, Rotary International launched PolioPlus, an effort to immunize the children of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the world against Polio. Rotary's efforts in conjunction with the WHO, CDC and UNICEF have nearly eradicated the disease, reducing worldwide incidence from 350,000 cases in 1988 to 1,266 cases in 2004. By the end of 2005, PolioPlus will have donated over $500 million to this remarkable effort. Since its inception in 1947, the Rotary Foundation has awarded over $1.1 billion in humanitarian and educational grants, focusing on international humanitarian service programs and educational and cultural exchanges.

The scholarship program established by Rotary International is the largest privately-funded source of international scholarships in the world. Through this program, 8,000 secondary school students have studied abroad, 35,000 students have participated in the Rotary Ambassadorial Scholars program, and 46,000 young professionals have explored careers in other countries.

Next month, over 37,000 members representing 150 countries will attend the 2005 Centennial Rotary International Convention in Chicago as apart of the greatest celebration in Rotary's history. On behalf of the people of Chicago, I would like to welcome these members to the birthplace of their organization.

Madam Speaker, I congratulate Rotary International and all of its members worldwide for their impressive accomplishments over the past one hundred years in the areas of community service, Polio eradication and international exchange. I look forward to another hundred years of commendable service to the country and the world.

HEALTH INSURANCE CRISIS

SPEECH OF

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today in the hopes that this day might mark a turning point for our nation's health care. I'm proud to join my friend from Pennsylvania and my co-chairman of the House 21st Century Health Care Caucus, Mr. Murphy, in introducing the 21st Century Health Information Act.

Mr. Speaker, we politicians love to say that we have the best health care system in the world. It's true that we have the best medicine in the world, practiced by the best people in the best facilities. But the system we have makes it harder rather than easier to deliver the best care at the lowest cost.

The status quo is not sustainable. Hundreds, of Americans die every day as a result of preventable errors or health care-acquired infections. Nearly half the time, patients aren't given recommended care. Doctors and other providers face extraordinary bureaucratic demand that, coupled with tightening reimbursement rates, leave them with less time to—treat patients. Administrative costs consume 30 cents on the health care dollar. Duplication, inefficiencies, and unnecessary care result in some regions of the country spending 60% more than others on Medicare, on a risk-adjusted basis, with worse health outcomes and patient satisfaction.

Whether you're worried about Medicaid, access to prescription drugs, malpractice premiums, the uninsured—you name it—the trend lines are going in the wrong direction because we aren't set up to get the best possible health outcomes at the lowest possible cost.

We are living in the information age, and information technology is the underpinning of any effort to improve the long-term quality, safety, and efficiency of health care. And that's why I'm hopeful that the legislation we introduce today will begin the much needed transformation of health care.

Today can be the beginning of the end of us having to fill out that confounded clipboard every time we go to the doctor.

Today can be the beginning of the end of the 150 million calls pharmacists make to doctors every year to clarify handwriting on prescriptions.

Today can be the beginning of the end of the bureaucratization of the practice of medicine, letting physicians get back to what they love, and what we need them to do: take care of patients.

And today can be the beginning of the end of seeing hundreds of thousands of Americans die unnecessarily because our system isn't set up to deliver the safest, most effective care despite the best efforts of doctors and nurses.

This bill is the first bipartisan legislation that addresses some of the systemic obstacles that have hindered the movement of health care into the information age. It is based on a regional approach, catalyzing a process that will bring together providers, patients, health plans, employers—all stakeholders—locally to do three crucial things: first, figure out how to collaborate on getting IT into physicians' hands; second, build a secure, confidential health information network to allow information to be shared as appropriate and authorized; and third, begin coming up with strategies to use the new information capabilities to make sure we get the right care to the right people at the right time as efficiently as possible.

This bill will make sure that the federal government, in addition to getting the process rolling with grants, carries its own weight as a stakeholder in every community. And it takes down existing barriers by accelerating the process of standards adoption to ensure that information can be exchanged across platforms and creating narrow safe harbors in the Stark Act and anti-kickback law.

A key to making this work, Mr. Speaker, is ensuring that privacy is a key priority as we move into an electronic medium. Electronic health records can be significantly more secure than paper records. Unlike with paper, we can create audit trails so we know whenever someone accessed a record. We can set up authentication systems to ensure that people are only able to access the parts of records that they need to see. While people understandably worry about security breaches and hackers, it's a lot easier to limit unauthorized access to electronic records than paper records that are passing through countless hands as they are filed, copied, faxed, transcribed, or simply left lying around. We can and must ensure that privacy and security are paramount as these systems are designed.

It is also important to note that under this bill, no physician will be required to implement anything unless he or she wants to. Physicians will have a key decisionmaking role in deciding how networks will be structured and what information will be shared. The bill does not require the use of a common platform or product but accelerates the development of interoperable electronic medical records and other products so physicians can choose products that are right for them. Well-designed systems should simplify physicians' compliance with HIPAA, not expand their potential liability, and should given doctors new tools to streamline billing, eligibility checks, patient tracking and notification, and public health and quality reporting.

We received a vast amount of help an input on this legislation from too many quarters to mention individually. I would like to single out, however, a distinguished former colleague of ours, Speaker Newt Gingrich. He has been a terrific supporter of this legislation, and I know both the gentleman from Pennsylvania and I are grateful for his help and that of his staff.

Mr. Speaker, with the President's support for health IT, with David Brailer and Secretary Leavitt laying out a vision that's very similar to this bill, with our colleagues in both the House and Senate increasingly interested in health IT, we are poised to finally begin the belated transformation of our health care system.

Each of us, whether as patient, provider, taxpayer, or health care bill-payer, desperately needs to see our health care system to produce better value for the dollar. The stakes are enormous and I look forward to working with my colleagues to see that we meet this challenge, starting today. Thank you.

HOLOCAUST REMEMBRANCE DAY

SPEECH OF

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 5, 2005

Mr. VISCLOSKY. Mr. Speaker, I rise today in observance of Holocaust Martyrs, and Heroes Rememorance Day. Known as Yom Hashoah in Hebrew, this solem day commemorates the anniversary of the beginning of the Warsaw Ghetto uprising. This year is of particular import, as it marks the 60th anniversary of the liberation of Nazi concentration camps. I join my distinguished colleagues in remembering the victims of the Holocaust while vowing that such a horror shall never again take place.

In remembering the six million victims of the Holocaust, we must recommit ourselves to fighting against the evils that led to the Holocaust; anti-Semitism, racism, bigotry, and intolerance. This commitment requires that we tell the story of the Holocaust to our children and grandchildren. We owe nothing less to the survivors and to the brave men who fought to liberate the Ghettos and the death camps.

I rise also to condemn the rising tide of anti-Semitism around the globe and to demonstrate the United States' lasting commitment to the elimination of such bigotry and ignorance. It is essential that each and everyone of us takes action to prevent such atrocities and vigorously pursues justice for the victims of acts of hatred and inhumanity. The crimes against humanity that were perpetrated by the Nazis must never be forgotten, lest we allow such evil to spread again.

We must also remember the handicapped, homosexuals, gypsies, political dissidents, and even Poles who were murdered in the Nazi ''Final Solution,'' simply for being different. The

Nazi hatred for anyone considered different stands as the antithesis of the values of freedom and liberty that we hold so dear.

It is also important to recognize the sacrifices, service, and dedication of Allied soldiers and underground fighters that resulted in the defeat of the Nazi regime and the liberation of the concentration camps. We are indebted to the service of these brave souls who fought against evil to stop the death and destruction of the Holocaust.

Mr. Speaker, today we mourn the innocent lives lost and vibrant communities destroyed by the Holocaust. We also honor those heroes of the Warsaw Ghetto who faced certain death when they fought against the Nazi's planned extermination of their community. With our solemn remembrance of the atrocities of the Holocaust, we empower a new generation to ensure that such crimes are never again repeated.

PAYING TRIBUTE TO VIVIEN SPITZ

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. TANCREDO. Mr. Speaker, I would like to take a moment to honor Vivien Spitz for her dedication and devotion to the court reporting profession over the past six decades. She has given so much to the court reporting profession and gained the admiration of friends and colleagues.

Vivien Spitz has played a valuable role in preserving history and documenting events of epic proportion throughout her career. She is a Fellow of the Academy of Professional Reporters of the National Court Reporters Association. Ms. Spitz was an Official Reporter of Debates and Chief Reporter in the United States House of Representatives from 1972 to 1982. During this time she reported Presidents Nixon, Ford, Carter, and Reagan on their State of the Union Addresses to the Nation.

Vivien also reported all foreign Heads of State who addressed Congress during this period including King Juan Carlos of Spain, President Anwar Sadat of Egypt, and Prime Minister Itzhak Rabin of Israel. She reported President Carter's establishment in 1978 of the President's Commission on the Holocaust, appointing Elie Wiesel as Chairman. She was also the first woman reporter in the U.S. Senate on temporary assignments during 1969, 1970, and 1971 out of her Denver district court.

By contract with the United States War Department, Ms. Spitz reported the Nuremberg War Crimes Trials in Germany from 1946 to 1948, including the Nazi Doctors Case. She recorded verbatim the words that came from the mouths of witnesses and victims who survived the heinous experiments ''in the name of scientific medical research'' conducted by doctors who had taken the Oath of Hippocrates to heal and cure, turned into doctors who became torturers and murders. Through the record that she helped to create this serious tragedy will never be forgotten.

Mr. Speaker, I would like to thank Vivien for her years of work and dedication to her profession. The history that she has preserved through her devoted work as a court reporter will never be forgotten.

SECURE ACT OF 2005

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. BACA. Mr. Speaker, today, following two school bus crashes that resulted in multiple injuries and fatalities in the last month, I reintroduced the SECURE Act of 2005, which requires all school buses to have safety belts.

Just yesterday, 23 children were injured in a bus crash in Missouri. Video from another accident in 2003 in Ohio shows 30 children literally falling out of their seats and being thrown against the other side of the bus. How can we say that our school buses are safe? We cannot wait for another tragedy to occur. It is time for Congress to take action.

Since we were old enough to ride in cars, we were taught to buckle our safety belts. We have taught our children these basic safety lessons to potentially save their lives during collisions. Yet, one of the most frequent forms of transportation used by school-aged children is not equipped with any life-saving safety belts. How can we not give our children the safest possible ride by assuring that all school buses are equipped with safety belts?

Currently, only six states require safety belts on school buses, including California, which was the first state to require three-point safety belts. The remaining states use the ''compartmentalization'' method to secure the safety of the occupant. This method assures a reasonable level of safety in frontal crashes; however, a 1999 report by the National Transportation Safety Board found that compartmentalization does not adequately protect passengers from lateral impact and rollover crashes because passengers do not always remain completely in their seats. Also, the national Highway Traffic Safety Administration concluded that there is less trauma to the head and neck of passengers wearing 3-point safety belts.

Many people argue that the cost of installing safety belts on school buses is too high, when in fact it is only about $1.80 per child. That is a minimal cost to pay to protect a child's life.

I hope that my colleagues will join me in cosponsoring this legislation. We should not offer our children anything less than the safest ride to school each day.

CORRECTING MISCHARACTERIZATIONS IN PRESS REGARDING ASSISTANCE FOR PALESTINIANS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KOBLE. Mr. Speaker, I rise to correct mischaracterizations in the press regarding assistance for the Palestinians included in the fiscal year 2005 Emergency Supplemental that passed Congress on May 10. As my colleagues are aware, the conference agreement includes $200 million in assistance for the Palestinian people. Contrary to statements of others, this is the amount requested by the President.

Several recent articles and editorials have inaccurately portrayed the way in which Congress provided this funding. The inaccuracies contained in these articles do not reflect the intent of the Administration or Congress and threaten to undermine the good work of the United States in supporting a lasting peace in the Middle East. These inaccuracies must be corrected.

First, the President did not request the $200 million as a direct payment to the Palestinian Authority. As Administration officials have repeatedly stated publicly and in communications with Congress, this funding was requested predominantly for projects that benefit the Palestinian people. For instance, Secretary Rice on February 16 testified before the Foreign Operations Appropriations Subcommittee and on February 17 before the House International Relations Committee that most of these funds would be used for projects, not direct payments to the Palestinian Authority. In fact, the supplemental conference agreement includes a chart highlighting how assistance should be provided on a project-by-project basis. This chart directly tracks the justification material provided by the Administration to support its supplemental request and establishes a mechanism for proper Congressional oversight and intent.

Second, it is simply incorrect to call an additional $200 million of U.S. taxpayer assistance a ''no-confidence vote'' for Mr. Abbas. There is widespread Congressional support and confidence in Mr. Abbas which is reflected by the $200 million provided in the supplemental and the $75 million provided in the fiscal year 2005 appropriations bill. This constitutes a nearly three-fold increase in U.S. assistance to the Palestinian people in just six months. As the final bill makes clear, these funds are provided with the same terms and conditions that have applied to Palestinian assistance in years past. Under these terms, the President may provide direct payments to the Palestinian Authority only if he certifies to Congress that such assistance is important to our country's national security interests.

Finally, the final bill requires that $50 million of the assistance should be provided to Israel to improve the movement of people and goods to benefit the Palestinian people. A stable Palestinian state must be built on economic development, and economic development must be built upon a smooth flow of goods and people to and from the Palestinian territories and Israel. The Congress also made it clear that infrastructure will have to be developed in both the Palestinian and Israeli territories.

Mr. Speaker, it concerns me that editorial boards of certain newspapers would make such strong statements about out lack of support for the Palestinian people based on inaccurate information. These issues are too delicate and too important to be damaged by careless journalism.

TRIBUTE TO DR. IAN HARRIS, IN RECOGNITION OF THIRTY YEARS OF SERVICE TO THE UNIVERSITY OF WISCONSIN-MILWAUKEE

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise to today to congratulate a distinguished

constituent of the Fourth Congressional District, Dr. Ian Harris, who was recently honored for 30 years of service to the University of Wisconsin-Milwaukee.

Dr. Harris serves on the faculty of the School of Education at UW-Milwaukee. He is currently chairperson of the Department of Educational Policy and Community Studies, and was the founder of the Peace Studies Certificate Program. He is widely known in national and international circles for his work in the field of peace research.

The hallmark of Dr. Harris' work is his dedication to non-violence and peaceful methods of conflict resolution. He has published numerous articles and books, including one that offers peacebuilding strategies for educators and community leaders who work with young people.

Dr. Harris' approach is certainly relevant to the needs of young people in my district. I thank him on behalf of the students he teaches at UW-M, as well as the broader Milwaukee community.

HOLOCAUST REMEMBRANCE DAY

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 5, 2005

Mr. EMANUEL. Mr. Speaker, I rise today to commemorate Yom Hashoah, Holocaust Martyrs' and Heroes' Remembrance Day. This year, the 60th anniversary of the end of World War II, serves as a solemn reminder of the tragic events that resulted in the murder of six million Jews and millions of other men and women. Today, we honor their memory and sacrifice.

Yom Hashoah is a sad day, but it also has a message of hope. It evokes memories of the lows of humanity and what can happen when the world turns its back to oppression. It reminds us of the suffering of millions who endured the evils of discrimination and racism. The entire world was impacted by the terrible events of World War II. We remember and honor the many individuals and their loved ones who suffered simply because of their religion or ethnicity.

This occasion is also a time for hope because we honor the memory of the past by passing down the lessons we have learned to future generations so that such tragic history will never repeat itself. Today, many events are taking place around the world to remind us of the events that took place during World War II and to unite all people together against racism, bigotry and hate.

The Days of Remembrance Ceremony was held in the Rotunda of our Nation's Capitol, a fitting place to spread the message of justice and freedom and to remember the heroes who gave their lives in the fight for freedom and democracy only 60 years ago. I am proud to stand here today to honor the memory of the victims in hope that the world will never again witness these atrocities.

Mr. Speaker, this is an important day for all mankind to stand together against racism, hate and intolerance and I urge all my colleagues to take a moment to reflect and remember.

TRIBUTE TO MAYOR JOSEPH CHIUSOLO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I am honored to take this opportunity to direct your attention to the life of a remarkable individual, Mayor Joseph Chiusolo of Cedar Grove, New Jersey, who was recognized on Friday, May 6, 2005 as Man of the Year by UNICO National.

Joseph Chiusolo was the son of a fire captain and spent his formative years living in Jersey City. He attended catholic elementary school before moving on to the Hudson County Vocational School in North Bergen. Mayor Chiusolo has accredited much of his success and accomplishments to his adolescent experiences in Jersey City which inspired him to dedicate his life to enhancing the lives of others.

At the age of 14, Joseph began volunteering his time at the Secaucus Ambulance Corp. and the American Red Cross. Upon reaching his eighteenth birthday, he became an Emergency Medical Technician at the Jersey City Medical Center. Joseph continued to work hard and eventually his sacrifices and efforts were rewarded.

In 1978 he became Assistant Director for the American Red Cross Disaster Services. He was primarily responsible for the coordination of emergency disaster responses in Jersey City and Hoboken. While serving at this post, in 1979, Joseph arrived at the scene of a burning building before the Fire Department and subsequently rescued the occupants.

After this experience, he vowed to do all he could to educate people about Fire Safety. It was at this time, that Joseph started a T-shirt screen printing business in the basement of his parents' home which became known as ''Turn Out Fire and Safety.'' He became a major supplier of Police, Fire, and EMS uniforms as well as protective clothing throughout the tri-state area.

Joseph Chiusolo moved to Cedar Grove, New Jersey in 1989 and immediately volunteered his time to the Zoning Board of Adjustment. He quickly became a fixture within the town and was elected by the residents to serve on the town council in 1997. Since that time, Joseph has served two terms as Deputy Mayor and two terms as Mayor.

As a former mayor and the Congressman for the Eighth Congressional District of NJ, I cannot think of another individual who has given more to Cedar Grove. Thus it is only fitting that he be honored, in this, the permanent record of the greatest freely elected body on Earth.

Mr. Speaker, I ask that you join our colleagues, the Township of Cedar Grove, Joseph's family, friends, and me in recognizing the outstanding service of Mayor Joseph Chiusoloa.

IN MEMORY OF RAMON WAGNER

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to celebrate the life and accomplishments of Ramon Wagner, a Milwaukee resident and an advocate for low-income people whose legacy will live on despite his untimely death on April 15, 2005.

Mr. Wagner, who founded Community Advocates in 1976 and served as its Executive Director, dedicated his life to serving the Milwaukee community. For almost 30 years, Community Advocates endeavored to be a place where people in need could come for help. In service of Mr. Wagner's vision, Community Advocates developed and implemented a range of services that help low-income families cope with the everyday challenges of living in poverty.

Low-income people throughout Wisconsin can thank Mr. Wagner for helping to organize the moratorium on natural gas shut-offs during the winter months. He negotiated an agreement with the gas company after an elderly woman died in her unheated apartment in 1984, because her landlord had not paid the heating bill.

Mr. Wagner will be remembered as a champion of services for low-income people, but he also leaves a strong legacy in his efforts to strengthen the network of service organizations. He understood that connecting to others' efforts would magnify the impact of scarce resources.

Ramon's was a well-lived life. I salute him for his dedication to serving others.

RECOGNIZING AND COMMENDING MEMBERS OF GARY INDIANA, BRANCH OF NAACP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to recognize and commend the members of the Gary, Indiana, branch of the National Association for the Advancement of Colored People (NAACP). On Friday, May 13, 2005, the Gary NAACP will hold its 42nd Annual Life Membership Banquet and Scholarship Dinner at the St. Timothy Fellowship Hall in Gary, Indiana.

This annual event is a major fundraiser for the Gary branch of the NAACP. The funds generated through this activity, and others like it, go directly to the organization's needed programs and advocacy efforts. The featured speaker at this gala event will be Attorney Dennis Wayne Archer. Attorney Archer will be honored with the Roy Wilkins Award. Archer is the Immediate Past President of the American Bar Association. He is the first person of color to hold the position as president of the ABA. Attorney Archer is also the former Mayor of the City of Detroit.

Attorney Fred Work will be honored with the Benjamin Hooks Award. Attorney Work is a distinguished attorney who has provided legal services to many citizens, not only in the community of Gary, but also throughout the State of Indiana. Attorney Work was the first African-American Judge in Lake County. Work was also the first African-American to graduate from Vanderbilt Law School and the first African-America to be nominated by the Democratic Party for statewide office.

The Gary NAACP would also like to recognize the accomplishments of the West Side

High School girls basketball team. The team's record is 24–4. The team's winning accomplishments include: the Gary Holiday Tournament, the Northwest Conference, the East Chicago Sectional, the Valparaiso Regional, and the Elkhart Semi-State finals. Those team players I would like to applaud are Michelle Hamblin, Isabell Rhenwrick (recipient of the 2004–2005 Patricia L. Roy Mental Attitude Award) Ashley Cheairs, Ashley Gates, Farren Congress, Candise Matthews, Shanee' Butler, Erica Simpson, Jaime Sherls, Lecreia Hudson, Loreal Brown, Jasmine Brown, Moenesha Headen, Sydney Pettigrew, Ashley Woods, Nicole Moore, Britney Peeples, and Britney Harris. I would also like to recognize Head Coach Rod Fisher and Assistant Coaches Darryl Brandford, Erza Alexander, and Arnetta Gates. Their leadership both on and off the basketball court is a valuable resource to the girls on the West Side girls basketball team.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in paying tribute to the new life members as well as the other members of the Gary NAACP for the efforts, activities, and leadership that these outstanding men and women have championed to improve the quality of life for all residents of Indiana's First Congressional District.

CONGRATULATING YVONNE EWELL TOWNVIEW MAGNET SCIENCE AND ENGINEERING SCHOOL ON BEING SELECTED AS ONE OF THE NATION'S TOP SCHOOLS BY NEWSWEEK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I would like to congratulate Yvonne Ewell Townview Magnet School for Engineering and Science for receiving the extraordinary honor of being ranked as one of the top schools in the country.

Each year, Newsweek chooses this distinct group from a pool of more than 27,000 high schools in America. Newsweek unveiled its current list in the latest, May 16th edition.

The Best High Schools list is assessed by using a ratio based on the number of Advanced Placement (AP) and/or International Baccalaureate (IB) tests taken by all students at a school in 2004, divided by the number of graduating seniors. This formula is said to indicate a wide measure of students' readiness for higher level work. Based on this formula, Townview was ranked # six in the nation, and number one in the State of Texas.

I am absolutely delighted that Townview has received a recognition I have long touted.

Located in my district of Dallas, Texas, Townview Magnet is one of the most diverse schools in the state. More than two-thirds of Townview's student body consists of minorities.

For the last four consecutive years, Townview has ranked number one in the nation, in the number of minority students to pass advanced calculus.

It has been discussed on numerous occasions and in numerous venues that the United States will not be able to lead—nor for that matter, successfully compete—in the global economy if we cannot put a stop to the continuing shortage of highly qualified scientific and technology brainpower in this country.

In response to this, in 2003, under the tutelage of Dr. Da Hsuan Feng, I partnered with the University of Texas at Dallas to sponsor a lecture series designed to expose Dallas-area high school students to the best and brightest minds in mathematics and science in order to promote career opportunities in those fields. Various leaders in these fields have participated in the lectures series, including, world-renowned sickle cell researcher, Dr. Betty Pace; Nobel Laureate, Dr. Russell Hulse, and the remarkable Dr. Shirley Ann Jackson, President Rensselaer Polytechnic Institute.

This honor is of particular significance, as I have long championed the need for more emphasis in science and math education, particularly for young children. I believe these students and others like them will become tomorrow's leaders in the fields of science and technology. Showing students the importance and the value of the science and technology fields is a life long process.

It cannot happen overnight. It begins here and now. I implore our community leaders to also encourage science education in young men and women.

I would like to commend Townview's Science and Engineering School principal, Richard White and Executive Principal Alice Black for their ''leadership and commitment to these students.

Mr. Speaker, again, I congratulate the students, teachers, principals and parents of Townview Magnet School in Science and Engineering on this distinguished honor.

LEGISLATION TO TREAT EMPLOYMENT TAXES PAID TO THE EU BY EMPLOYEES OF THE EU AS INCOME TAXES PAID TO A FOREIGN COUNTRY FOR PURPOSES OF THE FOREIGN TAX CREDIT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce legislation to correct an outdated tax law that is forcing a husband and wife of 27 years from my district to live thousands of miles apart during what should be the golden years of their retirement together. In introducing this legislation, however, I seek to not only assist the couple in my district who has brought this inequity to my attention, but also to assist any other families facing the same problem.

Mrs. Novella Wheaton Nied, a U.S. citizen and native Taoseña, and Veit Nied, a German citizen, called my attention to this issue early last year. The Nieds have been married almost 30 years and have lived overseas in various countries for the length of their marriage until September 2001. Mr. Nied, an economist, retired in September 2001 from the European Commission in Brussels, Belgium. The couple decided to return to Taos, New Mexico, Novella's home, for their retirement years, but learned upon Veit's approval of permanent resident status in the United States that his pension from the European Commission would be subject to double taxation—the initial tax by the European Commission, and again by the U.S. should he choose to make his residency here.

Double taxation on his pension will create a hardship for the Nieds in their retirement—both financially and emotionally. As a result, Mr. Nied did not accept the permanent resident status and has been traveling back and forth between Germany and the United States, being very cognizant and diligent about following U.S. immigration and taxation laws, and therefore has not stayed longer than 120 days per annum in the United States, which would render him liable for taxes in this country. This unfortunate living situation has been ongoing since 2001 when they learned of the double taxation and have been seeking a solution that would allow them to once again live together.

During this time, the Nieds have corresponded with the IRS seeking a solution to the problem, to no avail. I have consulted with the IRS, as well as with the Congressional Research Service, seeking a solution short of introducing legislation, but it has become clear that only legislation will remedy this problem.

The IRS tax code is outdated and does not recognize such multinational organizations as the EU for purposes of the foreign tax credit. As a result, the Nieds, and most likely other families in the United States, find themselves in this unfortunate predicament. The United States has tax agreements with many countries to prevent double taxation, as well as provisions in the tax code that allow resident aliens who pay taxes to a foreign country to claim the foreign tax credit that reduces their U.S. income taxes. Unfortunately, the EU does not qualify as a foreign country for purposes of the foreign tax credit.

As such, today I am introducing legislation that amends the Internal Revenue Code to treat employment taxes paid to the European Union by employees of the European Union as income taxes paid to a foreign country, for purposes of the foreign tax credit. This bill will allow Mr. Nied, and others in his situation, to qualify for the foreign tax credit.

Mr. Speaker, this is a simple bill that brings a section of the tax code up to date with the changes in international political institutions. While it certainly will help Mr. and Mrs. Nied, this legislation will also help other families who face the same situation. I urge my colleagues to support this legislation and pass it quickly to allow the Nieds, and others, to be permanently reunited so that they may enjoy their years of retirement in the company of their loved ones.

COMMENDING NATIONAL HEPATITIS B AWARENESS WEEK

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. STRICKLAND. Mr. Speaker, I am pleased to lend my support for House Resolution 250, supporting the goals and ideals of a National Hepatitis B Awareness Week.

We possess the weapons to combat hepatitis B, including vaccination and treatment. For those infected, treatment options exist that are designed to stop the progression of liver disease and reduce liver damage. It is encouraging that educational programs like the ''Aim

for the B'' campaign during National Hepatitis B Week will raise awareness about chronic hepatitis B. I am also impressed with community forums scheduled this week to educate those currently living with the disease as well as their doctors about new and improved methods that can prevent its transmission and progression to liver disease.

As we recognize National Hepatitis B Awareness Week, I encourage Americans who may be at risk for chronic hepatitis B to get tested for the disease and to understand there is a large group of patients who do need treatment right now. With increased awareness, education and treatment for the disease, we can help stop the progression of hepatitis B to liver damage and liver disease.

Mr. Speaker, I join my colleagues in reflecting on the importance of the work being done to combat chronic hepatitis B and recognize the fact that this is a preventable and treatable disease. I appreciate the opportunity to convey my support for House Resolution 250 and to recognize the need for more federal attention on hepatitis B.

HONORING THE WORK OF MOHAMMED JAFFER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PALLONE. Mr. Speaker, I rise this evening to honor Mohammed Jaffer. Mr. Jaffer is a talented photographer and a dedicated individual whom I have had the pleasure of knowing for years.

Mr. Jaffer was born in Hyderabad, India to a family wedded to the camera. His father, the late M.A. Rahim, was a renowned photographer, widely admired for his skill and vision. It was a popular belief that no one in the state of Andhra Pradesh could be deemed truly famous until Mr. Jaffer's father had photographed them.

Having grown up in a house where everyone looked at the world through a camera lens, it was only natural for Mr. Jaffer to follow suit. Not content to limit himself to his hometown or even his home country, he set himself a much broader goal. Accordingly, at the tender age of 19, he graduated from Nizam College in Hyderabad and came to the United States with just his camera and a dream. Mr. Speaker, it turns out that the United States has proved to be a land of opportunity for Mr. Jaffer.

Within a year, he formed his own news photo agency, SnapsIndia, and was well on his way to becoming the most-widely published Indian photographer in the country. In the next 15 years, Jaffer photographed various prime ministers and heads of states from different South Asian countries and around the world, as well as United Nations meetings and World Summits in New York.

Having established himself in America, he began to cover high-profile events around the world such as the 1991 Cricket World Cup in Australia and New Zealand, the 1992 Australian National Laser Sailing Regatta, the U.S. Open in tennis for the past 7 years, the 1996 Americas Cup in San Diego, as well as beauty pageants and fashion shows worldwide.

The highlight of Mr. Jaffer's career, however, came when he was invited to accompany President Bill Clinton to India in March of 2000. As part of the White House entourage, Mr. Jaffer had access to the President that no other Indian photographer could lay claim to. For five days, he photographed President Clinton in some of the most picturesque, and historic locations on earth, capturing the leader of the Free World in both private, pensive moments and at spectacular public events.

In 2001, Mr. Jaffer once again accompanied President Clinton to India when he visited areas in the western state of Gujarat that had been devastated by an earthquake. President Clinton, who had admired the photos, inaugurated the exhibition of Mr. Jaffer's photos of the presidential visit at Regent Wall Street hotel in New York on June 12, 2001. That same year, Mr. Jaffer covered the inauguration and oath ceremony of President George W. Bush.

Having established SnapsIndia, the first news photo service specialized to cater to the South Asian community in the United States, Mr. Jaffer has fulfilled the dream his father started 25 years ago when SnapsIndia was first established in Hyderabad, India. With SnapsIndia Jaffer has woven bridges and contributed to strengthening the ties between India and the United States through photojournalism.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. COSTELLO. Madam Speaker, I rise today in support of H. Con. Res. 136, a resolution that honors and celebrates the 24th Annual National Peace Officers' Memorial Service Observance Day on May 15, 2005. As a former police officer, I salute those law enforcement officials who died in the line of duty in 2004 and continue to honor those police officers who gave their lives in past years. As a member of the Congressional Law Enforcement Caucus, I strongly support critical funding for programs, such as the Community Oriented Policing Services (COPS) program, to hire additional police officers and help law enforcement acquire the latest crime-fighting technologies. I will continue to be a strong supporter of the law enforcement community and will advocate on behalf of public safety in Congress. I urge my colleagues to support this resolution.

RECOGNITION FOR KENTUCKY COUNTRY DAY SCHOOL

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mrs. NORTHUP. Mr. Speaker, I would like to recognize the philanthropic work of forty high-school students at Kentucky Country Day School in Louisville, Kentucky whose original fund-raising work on behalf of local organizations won them nationwide recognition for curriculum innovation in February 2005 by the Washington, D.C.-based National Association of Independent Schools (NAIS). Kentucky Country Day School was one of three schools nationally to receive this prestigious honor through the Leading Edge Program run by NAIS. The Leading Edge Program was created to explore, encourage, support and reward exceptional and innovative achievement in the areas of community relations, curriculum innovation, equity and justice initiatives and technology. This award is a testament to Kentucky Country Day School's commitment to developing and enhancing the leadership skills of the youngest and brightest among us through its unique Philanthropy course.

Philanthropy is no easy endeavor. Andrew Carnegie once said, ''I resolved to stop accumulating and begin the infinitely more serious and difficult task of wise distribution.'' With a $10,000 grant, these high school students began this ''serious and difficult task'' by creating a mission statement to help define their purpose and goals for The Artemis Fund, the charitable trust which they themselves operated. As trustees, these students were faced with the challenge of raising funds through telephone solicitations and establishing rules and procedures for giving and selecting worthy causes to fund.

Since the course's inception in 2001, The Artemis Fund has dispensed just over $19,000 to local organizations. This year, among the recipients chosen by The Artemis Fund were The Deaf Oral School and Youth Alive, a western Louisville after-school reading program.

Mr. Speaker, one of the most exciting things for me to see is the building up of our youth through positive and enriching programs that last far longer than the prescribed semester. Life-impacting education serves as a bedrock for creative ideas that one day will be used to transform the way we, as a society, interact and live. I am proud to know that these students have learned more than how to accumulate and dispense funds. Indeed, they have learned to lead by example and commitment, following through on their stated goals. This opportunity to learn about ''hands-on philanthropy'' will serve them well into adulthood. We can all take an important lesson from their great achievement and service to their community. I am delighted to recognize the Kentucky Country Day School for this momentous accomplishment.

THE RETIRED PAY RESTORATION ACT AND THE MILITARY SURVIVING SPOUSES EQUITY ACT (H.R. 303 AND H.R. 808)

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. MACK. Mr. Speaker, I rise today in support of our greatest national treasure—our veterans. Throughout our Nation's history, brave men and women have been committed to protecting our freedom, security and prosperity. It is only right for us to do all we can to help those who have fought to keep us free. That is why I rise in support of two thoughtful and prudent pieces of legislation: H.R. 303—The Retired Pay Restoration Act of 2005 and H.R.

808—The Military Surviving Spouses Equity Act, sponsored by Mr. MICHAEL BILIRAKIS and Mr. HENRY BROWN, respectively.

Mr. Speaker, these two critical pieces of legislation are smart, balanced and respectful of the time served by our Nation's veterans and the sacrifices made by their families.

The Retired Pay Restoration Act would address a policy that has long been unfavorable to the men and women who have returned home from battle. This legislation will let our disabled veterans receive not only the disability compensation they deserve, but the retired benefits they have toiled long and hard to receive. It is incumbent upon us to mark the time given by these brave individuals with appropriate legislation, such as this, that honors their courage and dignity.

I am also proud to support and cosponsor the Military Surviving Spouses Equity Act. This common sense bill ensures surviving husbands and wives of our veterans will still be able to count on the consistent income earned by their spouses in service to our country.

Mr. Speaker, with the passing of the War Supplemental last week, this body came together to raise death benefits for our soldiers and sailors who have made the ultimate sacrifice. I was proud to enthusiastically support that measure. It is with that same spirit that I ardently urge my colleagues to again put politics aside, come together, and pass these patriotic and dutiful pieces of legislation to support our proud veterans.

RECOGNIZING THE MOUNT OLIVE BAPTIST CHURCH SCHOLARSHIP PROGRAM

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. BOUSTANY. Mr. Speaker, I stand before you today to acknowledge the contributions of a very special church in Louisiana's 7th Congressional District. For over fifty years, the Mount Olive Baptist Church has been a important part of the Lake Charles community, making countless contributions to the moral fabric of Southwest Louisiana. Today I want to praise this church especially for its commitment to the education of our youth. For the past twenty-five years, Mount Olive has run scholarship program that has allowed students in my district to become better educated and productive members of our society.

In 1980, Brother Charles Ellis came to the delegation with the idea of providing educational scholarships for children of the community. Under the supervision of Reverend N.D. Lee, the congregation began awarding scholarships to local students for $400. Today the church awards scholarships of $1,000. So far, over seventy students have benefited from this program.

This marks the 25th year that Mount Olive Baptist Church has supported the educational dreams of students. The church has taken upon itself the mission of improving their community in the most important way possible—by seeing to the education of tomorrow's leaders. I thank Mount Olive Baptist Church for this tremendous service and wish them all the best in continuing to set such a fine moral example in Southwest Louisiana.

CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. UDALL of New Mexico. Mr. Speaker, May 12th is Chronic Fatigue and Immune Dysfunction Awareness Day.

Chronic Fatigue and Immune Dysfunction Syndrome afflicts more than 800,000 Americans. CFIDS, also known as Chronic Fatigue Syndrome (CFS) and myalgic encephalomyelitis, is a complex and debilitating medical disorder characterized by profound exhaustion, intense widespread pain, and severe problems with memory and concentration. It usually lasts for years, and many never recover. Because the symptoms of CFS are common to other conditions and no diagnostic test exists, it is often overlooked by health care providers. In fact, government studies show that only 15 percent of those who have CFS have been diagnosed by their doctor. It is even more difficult for CFS patients to get appropriate symptomatic treatment.

The cause of CFS is not yet known. Much of what we do know about CFS has been documented by researchers funded by the National Institutes of Health and the U.S. Centers for Disease Control and Prevention (CDC). Here are some facts: women age 30-50 are at greatest risk for developing CFS, and Latinos and African Americans are at greater risk for CFS than Caucasians or Asians. Children can get CFS too, although it is more common in teens than younger children. The condition may begin suddenly, as with the flu, or it may build gradually over time. Physical or mental exertion makes symptoms worse.

Individuals with CFS are severely impacted by the disease and, according to CDC studies, their functional status is the same as or worse than those suffering from obstructive pulmonary disease, coronary heart disease, osteoarthritis and severe depression. People with CFS often lose the ability to maintain full-time employment, attend school and participate fully in family life. The Nation's economy is also seriously affected; the annual direct cost of lost productivity due to CFS is $9.1 billion, an amount equivalent to Wal-Mart's annual profits.

There is hope. The Department of Health and Human Services has chartered a CFS Advisory Committee that meets quarterly to discuss research and service to people with CFS. The CDC is conducting promising research that may lead to a diagnostic test for CFS. Other researchers are following important leads that may improve treatment and deepen understanding of the way CFS affects various body systems. However, in fiscal year 2004, just $15 million was spent by the Federal Government to conduct research on this devastating illness. CFS consistently ranks at the bottom of NIH funding charts and even during the period when Congress was doubling the NIH budget, support for CFS research declined.

Many challenges remain and more federal funding is needed to answer basic questions. It is time for Congress to do more to help them. I urge my colleagues to earmark $10 million for CFIDS research in the next annual appropriation for the National Institutes of Health. CFS warrants the support of this Congress and we must find a way to help hundreds of thousand of Americans get back to work. Let's not wait another day.

TRIBUTE TO MICHAEL BRESLIN, JR.

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the work of an outstanding individual, Michael Breslin, Jr. who was recognized on May 10, 2005 for his lifelong dedication to litigation and the legal community.

It is only fitting that Michael Breslin, Jr. be honored, in this, the permanent record of the greatest freely elected body on Earth, for he has a long history of caring, leadership, creativity, and commitment to his noble profession.

A premier legal mind, "Jerry" as he is affectionately called, has let a few fundamental principles guide his career. He consistently makes a concerted effort to reach out into the community to make his services available. Mentoring and serving as a role model to the youth of Northern New Jersey has been his top priority. Lastly, he has never taken for granted his success or exploited his position for personal gain. Rather his humility seems to heighten with each passing year.

Michael Breslin has shared his invaluable knowledge and experiences as a Civil Trial Attorney by frequently lecturing at the Institute of Continuing Legal Education in the area of Civil Trial Practice techniques. As the borough attorney for Northvale, Dumont, Bogota, and Closter, Borough Prosecutor of both Palisades Park and Elmwood Park, and the former president of The Bergen County Bar Association, Michael Breslin's commitment to his community is unparalleled.

Michael Breslin exudes professionalism and dedication. Over the years Michael has been confronted by a wide array of obstacles and in each instance he has proven his resiliency. As a member of the New Jersey Sports and Exposition Authority, he truly displayed his innovative flare while supervising the constructing of the Meadowlands Arena.

The job of a United States Congressman involves so much that is rewarding, yet nothing compares to learning about and recognizing the efforts of individuals like Michael Breslin. As a fellow alumnus of Fordham University, I am proud to bestow this honor onto Michael Breslin.

Mr. Speaker, I ask that you join our colleagues, Michael's family and friends, all those who have been influenced by Michael, and me in recognizing the outstanding and invaluable service of Michael Breslin, Jr.

CHILDREN'S VISION IMPROVEMENT AND LEARNING ACT

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I rise today to call attention to the travesty of preventable vision loss in our nation's children.

The Centers for Disease Control and Prevention (CDC) recently reported that millions of children do not receive the vision evaluations recommended by top medical organizations, placing them at greater risk for permanent vision loss, as well as physical and emotional difficulties.

Undiagnosed vision problems can lead to permanent vision loss and learning difficulties.

The American Academy of Ophthalmology recommends a vision evaluation in the preschool years. Yet, the study finds that only 1 in 3 children received one before entering kindergarten.

It is a national disgrace that only a small number of children are actually receiving the preventative care, recommended by our own medical guideline, they need to ensure healthy vision.

One eye doctor who read the report called it, ''a wake-up call to both primary care providers and eye care professionals.'' It is clear that we must do better.

Mr. Speaker, in many cases, vision loss can be avoided with early diagnosis and treatment. For the sake of our nation's young people, we need to make sure that children receive the necessary preventative vision care.

Amblyopia is a serious vision problem that affects nearly one-half million preschoolers and is the leading cause of vision loss in young Americans. I recently met with seven-year-old Kennedy Biederman. She is a prime example of what can happen when a child doesn't get proper visual evaluations.

Throughout her childhood, no one noticed that Kennedy couldn't see well. Despite multiple visits, her pediatrician did not notice, her teachers did not notice and neither did the nurses that screened her vision at school. Like many others, she simply slipped through the cracks.

At age 5½, Kennedy happened to visit an eye doctor because of a small injury. The doctor performed an eye exam and diagnosed amblyopia. He also found that Kennedy was legally blind in her left eye and that her ''good'' eye had only 20/80 vision. ''I don't know how she was even functioning at school,'' her father said.

Mr. Speaker, we have the best medical system in the world. We must do better so that more children don't wind up in the same position as Kennedy. The best way to do that is by making sure that children receive an eye exam from an eye doctor.

An eye exam measures a number of visual skills that are critical to a child's healthy vision, such as using both eyes as a team, the ability for the eyes to focus properly when reading a book or viewing a computer, and the ability for the eyes to move properly when reading across a page of print.

As the National Amblyopia Youth Spokesperson, Kennedy, and her parents Jason and Jill Biederman, will have a great opportunity to share their story. I commend them for their efforts to raise public awareness and believe that with their help, we can make a difference in the lives of children nationwide.

The CDC states that approximately 1.8 million children under the age of 18 (2.5%) are blind or have some form of visual impairment. Many cases of visual impairment could be eliminated simply through more timely diagnosis and treatment.

In order to address this egregious situation, in the last Congress I introduced legislation to provide states with resources they need to increase the number of children that receive an eye exam. More than 100 of my colleagues cosponsored the legislation, as did more than 60 organizations nationwide.

Yesterday, I proudly reintroduced, the Children's Vision Improvement and Learning Act, H.R. 2238.

This bill would work to address these issues by offering grants to all states to provide eye exams and necessary follow-up care; developing and distributing educational materials on state children's vision programs; and ensuring that these new initiatives complement, not supplant, services provided under Medicaid and SCHIP.

As Congress works to improve the educational opportunities available to children in this country, the need to remove outside impediments to learning must be addressed to achieve long-term success.

DELIVERING MAIL—COLLECTING HOPE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. McDERMOTT. Mr. Speaker, I rise today to gratefully acknowledge and thank the National Association of Letter Carriers, the U.S. Postal Service (USPS), the AFL–CIO, America's Second Harvest, and the United Way of America for their extraordinary efforts in organizing and carrying out the largest single food drive in the world: the annual National Association of Letter Carriers National Food Drive.

The food drive will again take place on the second Saturday in May, which this year falls on May 14th. The timing of the drive is no coincidence; it comes at a time when most food banks are low on supplies, having exhausted their collections from the holiday season. Last year the food drive collected an incredible 71 million pounds of food for donation to food banks, pantries, and shelters across the country.

As you can imagine, it takes an army of volunteers to collect that amount of food. This year USPS, with help from the Campbell Soup Company and Valpak Direct Marketing Systems, is distributing more than 150 million mailings promoting the drive and encouraging donations. On May 14th, donations will be collected by letter carriers along their mail routes in all 50 states.

This year's food drive has an added urgency and importance. The food drive largely supplements the inadequate support the Federal government has provided to our nation's citizens facing financial difficulty. Families around the nation are struggling to get by—family wage jobs are scarce, energy prices are at record highs, and government support mechanisms are increasingly being axed by this Administration and this Congress.

When we think about letter carriers, first class comes to mind. From now on, we should think of letter carriers and everyone involved in this as world class, because that's what they are. Please join me in donating food on May 14th and acknowledging the spirit of America that will be carried from door to door. May this year's food drive be the safest and most abundant collection yet.

185TH BIRTHDAY OF FLORENCE NIGHTINGALE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to commemorate what would have been the 185th birthday of Florence Nightingale, the founder of modern nursing. This week also marks the 3rd annual National Nurses Week, which will be observed May 6th through May 12th.

The 2.7 million registered nurses in the United States bear the primary responsibility for the care and well-being of hospital patients and are the largest single component of the health care profession. Unfortunately, our nation faces a serious shortfall in the number of nurses available; too few nurses are caring for too many patients. According to a report by the Department of Health and Human Services, our nation could face a shortage of 800,000 nurses by the year 2020. As our population ages and as health care costs continue to escalate, government, hospitals, and policy advocates must work together to combat this problem.

The theme of National Nurses Week 2005 is Nurses: Many Roles, One Profession. In addition to their tireless hands-on efforts caring for patients, nurses are constantly involved in health education, research, business, and public policy. Having met with numerous nurses from the 29th district of California, I know first hand the needs of nurses of America. That is why I support House Resolution 245, which will recognize the important contributions of nurses to the health care system and the goals and ideals of National Nurses Week. I ask my colleagues to please join me in honoring some of America's greatest heroes, our nurses.

TRIBUTE TO THE CONGRESSIONAL YOUTH LEADERSHIP COUNCIL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the Congressional Youth Leadership Council (CYLC) on the occasion of their 20th Anniversary. Founded in 1985, the Council has long been committed to inspiring America's youth to achieve their full leadership potential.

CYLC has educated over 200,000 individually selected young men and women representing all 50 States, the District of Columbia, the American territories, and over 100

countries around the world since its founding. From my district alone, we have had more than 200 students participate in this outstanding and innovative program and in the entire State of Maryland over 1,600 students have had this terrific opportunity.

These energetic and dedicated young men and women are academically well-rounded, involved in their schools and communities, frequently interested in careers of government and service, and eager to develop their leadership skills. In addition to representing all comers of the country and globe, they are culturally, racially, and economically diverse.

The Congressional Youth Leadership Council programs bring thousands of students to Capitol Hill each year in an effort to deepen their understanding of the realities of government, citizenship, and service. I know my colleagues and our staff appreciate the opportunity to discuss important local, national, and global issues with these bright and eager young students.

Essential to the success of these and other CYLC programs is the focus on learning through experience. Students are challenged with simulations, role playing, and debate. They are charged with applying those experiences to abundant opportunities for personal interaction among each other and with today's leaders. The greatest outcome of this type of educational experience is open dialogue, perspective sharing, and cultural exchanges that increase understanding, cooperation, and teamwork.

The Congressional Youth Leadership Council inspires and energizes young men and women who return to their homes, communities, and schools with the tools and commitment to be effective leaders both today and for many years to come.

Mr. Speaker, I would ask my colleagues to please join me in congratulating CYLC on 20 years of positively impacting the lives of America's youth, our next generation of leaders.

INTRODUCTION OF THE PATIENTS' BILL OF RIGHTS ACT OF 2005

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. DINGELL. Mr. Speaker, today my House colleagues and I are reintroducing the Patients' Bill of Rights. This bill will protect patients from the unscrupulous activities of HMOs and hold them accountable if their negligent actions harm their patients.

Although we have worked on this bill now for seven years, we have been thwarted at every turn by the Republican leadership, the Administration, and the insurance industry. We need to get this bill back on track.

President Bush promised his support for such a bill during his 2000 Presidential campaign. But in the end, it was his efforts that killed our bipartisan bill in 2001.

In spite of this setback, we remain undeterred. Working families have waited long enough for the rights they deserve that would be protected under this bill.

We were optimistic the Supreme Court would clarify the law on the side of patients, allowing state HMO accountability laws to stay in force. But the Supreme Court ruled against patients, leaving a situation where at best HMOs may or may not be held accountable in state court and at worst HMO attorneys will use this ruling to avoid accountability altogether. This court decision only further underscores the need for action.

Unfortunately, it appears now that some in Congress not only want to protect the HMO status quo, but go further, under the guise of ''medical liability reform,'' to make it more difficult for patients to get justice. Such reform would not only apply to cases of medical malpractice by physicians, but also severely limit accountability of HMOs and drug manufacturers.

We need a Patients' Bill of Rights to protect Americans from crafty HMO attorneys who avoid accountability by keeping victims and their families tied up in court for years. Without this needed legislation, only foreign diplomats, the mentally insane, and HMOs will be exempt from the consequences of their decisions.

IN SPECIAL RECOGNITION OF BRANDON W. BURNER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Brandon W. Burner of Tiffin, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Brandon's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2009. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Brandon brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Brandon has attained a grade point average of 4.06, which places him at the top of his class of more than two hundred students. While a gifted athlete, Brandon has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Brandon has been a member of the National Honor Society, Honor Roll, and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Brandon has distinguished himself as an excellent student-athlete. On the fields of competition, Brandon has earned letters in both Varsity Football and Track and Field. He was named Honorary Captain of the Varsity Football team, selected as a 2004 delegate to the American Legion's Boys State and attained the rank of Eagle Scout as a sophomore. Brandon's dedication and service to the community and his peers has proven his ability to excel among the leaders at West Point. I have no doubt that Brandon will take the lessons of his student leadership with him to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Brandon W. Burner on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Brandon will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

HONORING MR. RON CHAPMAN

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HENSARLING. Mr. Speaker, on behalf of his many loyal listeners in the Dallas-Forth Worth and the Fifth Congressional District of Texas, today I would like to honor my friend, Mr. Ron Chapman, for his many years of outstanding broadcasting and community involvement. With his wit, wisdom, and welcome voice, Ron Chapman has helped wake up, inform, and entertain millions of North Texans for the past 45 years.

Ron Chapman came to Dallas in 1959 and began working for KLIF–AM. In 1965, he joined WFAA–TV and for 2 years he hosted the teen dance show Sump'n Else! In the late 1960's, Ron helped bring KVIL to the top of the ratings as both the morning host and program director. Although he left KVIL in 2000, he did not go far. Ever true to his Dallas audience he moved to KVIL's sister station, KLUV–FM. There his morning show continued to consistently rank in the top 10.

Ron Chapman earned the very first National Association of Broadcaster's Marconi Award for Personality of the Year in 1989. As a testament to the quality of his work and his commitment to excellence in broadcasting, Ron Chapman was also inducted into the Texas Radio Hall of Fame in 2004. One of his radio colleagues described Ron as ''the benchmark'' of what morning radio should be, and I am sure his many listeners agree.

Ron Chapman is more than just a radio personality, to the people of North Texas, he is our friend. As the Congressman for the Fifth Congressional District, and as one of his many loyal fans, it is my distinct pleasure to honor Ron Chapman today in the United States House of Representatives.

Ron, many thanks for all that you have done over your distinguished broadcasting career. You will be fondly remembered and you will be deeply missed on the airwaves by the people of Dallas.

IN HONOR OF ARTHUR DOUGLAS' FIFTY YEARS OF SERVICE TO ST. MARK'S SCHOOL OF TEXAS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor the commemoration of Arthur Douglas'

half-century of service to St. Mark's School of Texas. I am proud to represent St. Mark's School of Texas in the 32nd Congressional District of Texas, and join my colleagues in honoring this historic achievement by Arthur Douglas.

Arthur Douglas was born in the Yorkshire town of Bradford in 1916. As a boy, he kept birds and developed his artistic skills. In 1932, Arthur won a national scholarship and matriculated to the Bradford College of Art and Crafts, from which he graduated in 1937. After Bradford, Arthur taught at the Leeds College of Art and Drawing and the Shipley School of Art (1937–1940), Avoncraft College (1940–1946), the Dudley Grammar School (1946–1949), and Victoria College on the Isle of Jersey (1949–1955).

In 1955, Arthur followed Victoria College colleagues D.G. Thomas and Norman Blake to join the St. Mark's faculty. He taught six days a week, instructing students in art, Spanish, English literature, and handwriting (then a required course through sophomore year). Within 3 years, Arthur transferred to the Science Department where he taught 1st through 8th grade science on the second floor of Davis Hall. By 1960, a new science center was built with a greenhouse designed by the noted architect, O'Neil Ford. While attractive, it was a horticultural disaster and Arthur became a key member of the team responsible for designing a new Greenhouse containing a room of bromeliads and succulents, a tropical room, and a room specifically for cacti. In 1963, Arthur devoted much of his time to seventh grade life science, a course he would teach for the next 2 decades.

Cecil Green, who was President of the Board, admired Arthur's work and asked him to design the planting for the Math/Science courtyard. He used part of his own collection to illustrate the four natural growing areas of Texas. In 1969 Arthur developed and implemented plans for the Aviary. For his vast knowledge in the natural sciences, P.O'B. Montgomery, Jr. '38 appointed him ''Curator of Living Materials,'' a title he holds to this day.

The Class of 1972 honored Arthur by dedicating the Marksmen to him. As they wrote, ''Mr. Douglas is a unique man at St. Mark's. Nowhere in our community is there to be found an individual as involved with the students, as humorous, and at the same time, as scholarly. . . . he is a fine and outstanding individual.''

Without seeking it, Arthur's knowledge of ornithology and the natural sciences made him internationally renowned. From the 1960's through the 1980's, he wrote articles and regularly appearing columns for the English weekly magazine Cage and Aviary Birds. He wrote and illustrated articles for The Canary & Finch Journal and The Journal of Yorkshire Cactus Society. For his research on the artificial feeding of insectivorous birds in captivity, he was elected a Fellow of the London Zoological Society in 1969. Arthur has written numerous articles and translated Seventeenth century ornithological works into English from Italian and French. In 1978 he was invited to make a presentation at the 1st International Symposium on Birds in Captivity. Arthur continues to catalog and illustrate birds and is currently on his fourth volume of compilations. He has been a member of the Avicultural Society, the Royal Horticultural Society, the Arizona Native Flora Society, and the Audubon Society.

In 1963 Arthur met Alice Taliaferro, a substitute teacher at St. Mark's. They married in 1965 and he helped raise her two children Alan Douglas of Dallas and Anne Poole of Muenster. Alice died in 2000 after 35 years of marriage.

He retired from teaching in 1982, but Arthur continues to be an important member of the St. Mark's faculty. He takes care of and gives tours of the Greenhouse and Aviary, instructing boys on the wonders of the natural world. Faculty and students alike appreciate Arthur's encyclopedic knowledge, English wit, and considerable charm. For 50 years, Arthur Douglas has embodied St. Mark's commitment to the pursuit of excellence and has taught by example what it means to be an inspiring teacher, a caring mentor, a true gentleman, and a great friend.

RECOGNIZING A RECENT SPEECH BY REPRESENTATIVE ROSA DeLAURO AT GEORGETOWN UNIVERSITY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. DINGELL. Mr. Speaker, I rise today to recognize the recent speech that my good friend and colleague from Connecticut, Congresswoman ROSA DeLAURO, gave at Georgetown University on April 19, 2005. Representative DeLAURO plainly and passionately conveyed her opposition to privatizing Social Security. Moreover, Representative DeLAURO clearly lays out how the values instilled in her by both her parents and the Catholic Church led to her opposition to privatizing this vitally important program that has kept millions of seniors out of poverty since it was signed into law in 1935. I applaud the Congresswoman's ability to connect her faith with her public service.

I would like to take this opportunity to insert Congresswoman DeLAURO's speech into the RECORD and would encourage all my colleagues to take a few moments to read it.

It is always good to be here at Georgetown among friends—so many good, young Democrats engaged in the process, fighting for change, who understand the stakes of today's political debates and want to take part in them. As the future of the country, no one has more riding on them than you. You know better than anyone that their outcomes will determine the course of this country for decades to come.

And as College Democrats, you are committed to the values of our Party. Not only are you working to elect Democratic candidates, perhaps more importantly, you are encouraging involvement and building excitement within the Party, providing your peers with the skills and experiences necessary to reinvigorate the Party from the grassroots. That is something very precious—and so important right now.

Tonight, I wanted to discuss the values that not only unite us Democrats but as Americans—particularly as to how they have shaped and informed the Social Security program over the years. Indeed, we hear so much about the importance of values today—but oddly enough, little about what they are, where they come from and what their implications are in government and society. And so tonight, I would like to speak about that nexus between values and public policy, a little about how my values shaped my own views and led me into public life, and how in the Social Security system we find a true reflection of those values in the pursuit of the common good.

We can all agree that values encompass so much more than the cultural flashpoints with which they are often associated in the media today. Values should not be reduced to one or two political issues. Rather, they are so much broader than that—the guiding principles on which we conduct our lives. Given to us by our parents and to them by their parents, one's values are what give life meaning. They ground us and provide the ethical framework within which we conduct our lives and raise our families.

Mine were given to me by my parents, who came to this country as Italian immigrants. In our household, I was constantly reminded of the value of working hard to get ahead and giving back to a country that had given so much to us. My father, who dropped out of school in the seventh grade, largely because students made fun of his broken English, went on to become a proud veteran of this country—he served his community. He sat on New Haven's City Council, as did my mother, who served there for 35 years—well into her 80's.

Working in a sweatshop sewing collars for pennies before going on to a life of public service, my mother was a driving force in my life and career. But to be sure, faith played a large role in shaping my values as well, having attended Catholic school from elementary school to college. It was there that I learned to nourish my mind and my heart—to reach out, to work hard, to fulfill my potential and be whatever I wanted to be. But it also taught me about right and wrong, personal responsibility and how to nourish my community, my neighbors—to give something back to my world, to the people of that world.

In a broader sense, it was the church that bound us together as a community in my neighborhood—in our schools, in our hospitals. My father received communion daily—and lived his faith with commitment. Our local parish and our kitchen table were our community center—where people gathered to share their lives and help one another. Every night around my family's kitchen table, I saw how faith could serve as the nexus between family and community. There, I would witness firsthand how my parents helped solve the problems of people in our neighborhood.

With my parents' example and my Catholic upbringing, I learned the vital connection between family, faith, responsibility, community, and working for the common good—that values learned at home and at church effected change at the community level both profound and undeniable. It showed me that government can and must play a critical role in helping people make the most of their own abilities and how to meet their responsibilities to each other and society as a whole.

My own story is hardly unique. Many of these values have helped shape America's public policy over the course of our nation's history. Indeed, many of the economic and social achievements of the past century have their roots in this vision of opportunity and responsibility, community, a recognition of our obligations to each other—including Medicaid, Head Start, the child tax credit, and the GI Bill, to name but a few.

Perhaps the ultimate legislative expression of our nation's shared values and those I learned growing up is Social Security, which for 7 decades now has tied generation to generation, ensuring that those seniors have a secure retirement after a lifetime of work. Social Security was born in part out of

FDR's appreciation for Catholic Social Teaching and Monsignor John Ryan's role in advocating programs based on the social letters of Pope Pius the Eleventh and particularly Pope Leo the Thirteenth's Rerum Novarum, which read, ''Among the several purposes of a society, one should try to arrange for . . . a fund out of which the members may be effectually helped in their needs, not only in the cases of accident, but also in sickness, old age, and distress.'' In that respect, Social Security was the embodiment of those teachings—a declaration that our human rights are realized in community.

Such sentiments were reflected in FDR's words to the Congress in 1934, when he said, ''We are compelled to employ the active interest of the Nation as a whole through government in order to encourage a greater security for each individual who composes it.''

For FDR, Social Security was one way we could promote and maintain our shared values by rewarding work and ensuring a decent retirement for those who have worked a lifetime. And by depending on and encouraging younger generations to take responsibility, too, Social Security reinforced the idea that in America, we do not leave every man or woman to fend for himself or herself—that we do not tolerate the impoverishment of our senior population. Those are our nation's values and they are perpetuated by the very construct of our Social Security program.

Indeed, with the first Social Security check issued, poverty among the elderly began to drop. In the 1950s, more than 30 percent of elderly Americans lived out their last years in poverty—today that figure is about 10 percent, with 2 out of 3 seniors today relying on Social Security as the prime source of their monthly income, including three-quarters of all elderly women.

And Social Security is not just for people like our parents and grandparents—a third of the 47 million people who rely on the program are the disabled, widows and children. All told, that is 47 million people—parents, grandparents, widows and children—who do not have to rely solely on their families for financial support because they have the help of Social Security.

For women who on average earn less and spend less time in the workforce, Social Security is a blessing. Women comprise nearly 60 percent of all seniors on Social Security—a majority of whom would be living in poverty without it. More than half of all women receiving benefits do so as the spouse of a retired worker, but for 4 in 10 women living on their own, the program accounts for 90 percent of their retirement income.

So essentially, Social Security functions not only as a safety net for older Americans, but in a way, for the rest of us—a kind of family insurance guaranteeing that we can live our own lives and raise our own children, confident that our parents and loved ones have something to rely on and can live independently of us. It is without a doubt the most successful, efficient middle-class retirement program we have—a ''national achievement'' that we can be proud of as individuals and as members of a good and decent society.

Yet today, the commitment to opportunity and community out of which Social Security was created has frayed. For sure, a coarseness to our culture today in our politics and in the media has deepened divisions in society. But I think it goes deeper than that. Today, pleas for community and the common good have taken a backseat to appeals to self-interest, sometimes greed, and extreme individualism—policies that make us more unequal and divided. And where government was once seen as a vehicle for our shared values, today it is often viewed with suspicion and mistrust.

Indeed, no debate is more symbolic of the forces at play in today's society than the one surrounding the future of Social Security. Despite the program's unqualified success, the president wants to change it. The reason he gives is that in 2018, benefits being paid out begin to exceed what Social Security is taking in in payroll taxes, even though Social Security will be able to pay 100 percent of benefits until 2041. Even after 2041, the Social Security Trust Fund does not go bankrupt, because the program will still be able to pay between 70 and 80 percent of its benefits.

Congress must address the funding shortfall in the middle of the century. Yet what President Bush is proposing is that we radically change this successful program—privatizing Social Security by diverting a third of payroll taxes that pay benefits today into private, individual accounts that can be invested in the stock market.

I think the Catholic Bishops had it right, when they wrote extensively on this issue at the end of the 1990's as Republicans were advocating for Social Security's privatization. The Bishops said then that Social Security had been established as an insurance program in which, quote, ''society as a whole buffers the individual and collective risks that workers and their families face.'' They went on to say that turning Social Security into an investment vehicle for individuals, quote, ''does not guarantee an adequate or assured retirement program'' for our senior population.

But that is precisely what President Bush wants to do. He wants turn Social Security into an investment program—a tool to create personal wealth. And I fail to see how a program benefiting our national community, rooted in values that promote the common good and reinforce the idea that we are all in this together, is improved by private accounts. These values go to the heart of what I believe as a Democrat and as a Catholic.

Besides, privatization does nothing to address the expected shortfall in the current Social Security system—the reason President Bush brought up privatization in the first place. In fact, by taking money out of the trust fund to create private accounts, the president's proposal makes the problem worse. Secondly, privatization will balloon our half-trillion dollar deficit by as much as $5 trillion in the next 20 years because we will still have to pay benefits to current retirees at the same time we are taking money out of the system to create private accounts. That means higher interest rates for buying a house, a car or going back to school.

Third, we would be eliminating the program's guaranteed benefit and requiring benefit cuts that the Administration itself has estimated will be as steep as 40 percent—all for a plan that does not even address the underlying problem. The amount retirees get from Social Security is already modest—about $955 per month, $11,500 per year, enough to pay for most basic needs, but hardly enough to get by on alone.

And for women, for whom Social Security has been such a success, the effects of privatization would be disastrous, as confirmed by a recent report by the National Women's Law Center. For 29 percent of women, Social Security is the only retirement package available. Privatization would replace the program's progressive benefit structure with private accounts based only on a worker's contributions to the account—cutting the average widow's benefit in my state of Connecticut to a paltry $518 per month.

And privatization is not only a bad deal for our mothers and grandmothers—but for young women as well. For all our gains, women still earn less—77 cents for every dollar men earn—even though we live longer. And the Social Security Administration itself predicts that 65 years from now, 40 percent of married women will still receive benefits based on their husband's higher earnings record.

You might be asking—but what about the increased benefits from the stock market? Well, you do not get to keep the full Social Security and the full private account. The average private account would be taxed at 70 percent through monthly deductions from your Social Security check. This privatization tax would come on top of the benefit cuts that will affect all Social Security beneficiaries.

It is complicated, but when you retire, you essentially have to pay the money you put into your private account back to the government. So, at the same time that the private accounts would be adding to your income, a large portion of that additional income would be offset dollar for dollar through reductions in your guaranteed Social Security check. And that would be regardless of how well your private account performed.

But well beyond the financial implications of privatization—and there are many—are its moral implications. As The National Catholic Reporter editorialized recently, what we risk losing with privatization is so much more than money. We risk losing the agreement that we have maintained for the past half-century that we are all in this together. We risk losing faith with the understanding that all workers—poorest to richest—contribute to something in common and that everyone gets something in return. And we abandon the sense that despite differences in political outlook and social standing, we all believe that is good for society to guarantee a minimum standard of economy security for its oldest, disabled and widowed citizens. That is what privatization risks.

As someone who has had the privilege of serving in the Congress of the United States for over a decade-and-a-half, representing more than a half-million people, I believe that government has an obligation to play a role in making opportunity real—a moral obligation. I do not believe in every man or woman for himself or herself. I believe in values like shared responsibility and personal responsibility. I believe in what we can achieve together. Those are the principles at the core of Social Security. They are what drive me—they are what drive you. They are what drive each of us as Democrats and Americans.

The fight to preserve Social Security and make it as successful in the 21st Century as it was in the last is a struggle that every American has a stake in—but no one more than the younger generation. This is a defining challenge for us—a statement about the kind of country we want America to be. As Franklin Roosevelt told Congress, Social Security is a ''return to values lost in the course of our economic development and expansion.''

That is our challenge today, as well—to bring change, while affirming our values as Americans and as Democrats. Indeed, in 1983, bankruptcy was only a year off—one year, not 37. Back then, Congress and President Reagan worked together on a bipartisan commission that ensured Social Security would be solvent for generations. And they did it not by changing the fundamental nature of the program but by making minor adjustments to the benefits and financing structures.

In my view, that is the example of bipartisanship we should draw upon. With so much at stake for our communities and the country, I believe we need that kind of bipartisanship in this debate—one that achieves consensus, strengthens the program's guaranteed benefit in retirement and reflects our nation's shared values. Because this fight is

not only about stopping the bad idea that is privatization—it is about promoting and maintaining the good idea that was and is Social Security.

As students looking forward to lives of your own, raising families and embarking on careers, you have been given a remarkable opportunity—to put the values your parents instilled in you to use in society, in whatever career you choose.

My challenge to you today is: how are you going to seize this opportunity—to give back and have a say in this debate which is so important to our shared values? What role will you play in ensuring future generations have the quality of life you and your families have had? I do not pretend to have all the answers. But if my own experiences have taught me anything, it is that bringing our values to the public sphere is not a matter of expediency but of moral and civic obligation—a call I hope each of you choose to answer.

Thank you for this honor and this opportunity.

BALTIMORE-WASHINGTON INTERNATIONAL AIRPORT IS RENAMED IN HONOR OF JUSTICE THURGOOD MARSHALL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. CARDIN. Mr. Speaker, I rise to ask my colleagues to join me in recognizing an important day in Maryland history. Yesterday, in Annapolis, legislation was signed into law renaming our State's largest airport the ''Baltimore-Washington International Thurgood Marshall Airport.''

Born in Baltimore, Maryland in 1908 and educated in our State's public school system, Thurgood Marshall devoted his life to the pursuit of equal justice for all Americans. Named ''Thoroughgood'' at birth after his great-grandfather, a former slave who had fought for the Union Army during the Civil War, Marshall later shortened his name to ''Thurgood.'' After graduating from Lincoln University, Marshall received his law degree from Howard University in 1933, and set up private practice in Baltimore before joining the Baltimore NAACP.

His remarkable career spanned several decades, during which he served our country honorably. His work as Director-Counsel of the NAACP laid the groundwork for some of the most historic civil rights decisions in our Nation's history. He also achieved international stature as a champion of equal rights around the world. President John F. Kennedy nominated Marshall to the U.S. Court of Appeals for the Second Circuit in 1961. President Lyndon B. Johnson named him U.S. solicitor general in 1965 and nominated him to the Supreme Court in 1967. Justice Marshall served as the first African American Justice from 1967 until he retired in 1991.

Thurgood Marshall passed away in 1993 at age 84, and his body lay in state at the Supreme Court where thousands of mourners came from across the Nation to pay tribute to him. Renaming this international airport for him now serves as another fitting tribute to such a great Marylander and a great American. It will also serve to enlighten travelers from around the world that Baltimore was his home. Finally, Mr. Speaker, I want to acknowledge the extraordinary bipartisan effort in our state legislature—and particularly recognize the leadership of Delegate Emmett C. Burns, Jr.—that led to enactment of this law, and encourage all of my colleagues in Congress to use the Baltimore-Washington International Thurgood Marshall Airport for their next flight home.

HONORING THE LIFE OF CAPTAIN CHARLES ''CHUCK'' McATEE

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. MORAN of Kansas. Mr. Speaker, today I rise to honor the life of Captain Charles ''Chuck'' McAtee. After leading a life devoted to public service, Captain McAtee passed away on Friday, April 8, 2005 from acute leukemia.

In his life, Captain McAtee was committed to the principle of country before self. When duty called, he answered, serving proudly and honorably as a United States Marine in the Korean War. His experiences in Korea inspired him to later lead the effort to ensure the dedication of the Northeast Kansas Korean War Memorial in Topeka in 2003. He also generously shared his love of country with others, such as his financial support to Marine Junior ROTC programs.

Following active military service, Captain McAtee pursued two of his great interests in life—public service and the law. He first demonstrated a devotion to law through his work for the law firm of Eidson, Lewis, Porter & Haynes in Topeka, Kansas. He also used his legal knowledge serving as an officer to the 1st Marine Division Association.

Captain McAtee later became involved in public service at the age of 27, working as a special agent for the Federal Bureau of Investigation. He then transitioned into State government, combining his passion for law and law enforcement through service as the Director of Penal Institutions for the State of Kansas—a position that would define the remainder of his life.

As Director of Penal Institutions for the State of Kansas, Captain McAtee played a major role in the case of the Clutter family murders and bringing their killers to justice. The murders eventually became the subject of author Truman Capote's book *In Cold Blood.* Captain McAtee's position brought him in close contact with the convicted murderers in the Clutter case, receiving frequent uncensored correspondence from them and visiting with them during their time on death row.

Captain McAtee also demonstrated leadership and commitment to public service by representing the Republican Party as a candidate for Congress in 1972, and as a candidate for Kansas's Attorney General in 2002.

Although his experiences took him around the world and into the national spotlight, he never abandoned the values instilled in him by his parents, neighbors and friends in the small, Kansas hometown of Mahaska. The principles of hard work, integrity, and justice that had been engrained in him in his youth, guided his efforts throughout his life.

Captain Charles ''Chuck'' McAtee was a true public servant who fit the situation within which he was called to serve. I join his many friends in extending my deepest sympathies to his family during their time of loss.

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall numbers 162 and 163 on May 10, 2005, I was on Congressional travel and unable to cast my vote.

Had I been present, I would have voted the following:

Rollcall no. 162, H. Res. 193, in Support of the Assembly to Promote Civil Society in Cuba, I would have voted ''yea.''

Rollcall no. 163, H. Res. 142, Supporting the Goals of Rotary International Day, I would have voted ''yea.''

IN SPECIAL RECOGNITION OF MARY B. GUZOWSKI ON HER APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Mary B. Guzowski of Tiffin, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Mary's offer of appointment poises her to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young women and men have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Mary brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Mary has attained a grade point average of 3.72, which places her in the top ten percent of her class of over two hundred students. While a gifted athlete, Mary has maintained the highest standards of excellence in her academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Mary has been a member of the National Honor Society, Honor Roll, the Marching Band, the Symphonic Band and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Mary has distinguished herself as an excellent student-athlete by earning letters in both Varsity Soccer and Swimming. She has also remained involved in her community by coaching elementary soccer, serving as a church lector and assisting her peers as a Teen Advisory Board Member. Mary's dedication and service to the community and her peers has proven her ability to

excel among the leaders at the United States Air Force Academy. I have no doubt that Mary will take the lessons of her student leadership with her to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Mary B. Guzowski on her appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Mary will do very well during her career at the United States Air Force Academy. I ask my colleagues to join me in wishing her well as she begins her service to the Nation.

A TRIBUTE TO UNIVERSITY OF REDLANDS PRESIDENT, JIM APPLETON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to a true leader for quality higher education in California, University of Redlands President, Jim Appleton. Over the past 18 years, Jim Appleton has helped a small liberal arts college gain a national reputation for excellence and progressive thinking.

The University of Redlands was established by the American Baptist Church nearly 100 years ago in what was then a small farming community east of the growing Los Angeles urban area. In the intervening century, both the city of Redlands and the University have grown in population and sophistication. The university is now an independent liberal-arts school, and the community is known throughout Southern California for its historical housing districts and support for the arts.

The University of Redlands was already becoming a modern institution when Jim Appleton was named president in 1987. Its student body had grown to 1,280, and its endowment was a respectable $24 million. It had been rated highly in the widely-read survey of colleges by the U.S. News and World Report magazine.

Jim Appleton came to the University of Redlands from the University of Southern California, where he had been a faculty member, vice president for student affairs and vice president of development. He brought a can-do spirit from that national powerhouse institution.

Appleton balanced the university's books in 1989 for the first time in years. A new ball field was added in 1994, and a new NCAA-quality aquatics center opened in 1996. Overall, the college has invested $140 million in new facilities in the past 18 years—compared to $21 million in the previous 20 years. The building program is continuing with a new science center, new environmental studies center and new mathematics facility. Along the way, many of the college's historic structures have been renovated and modernized, as well.

New academic programs include Environmental Studies, Race and Ethnic Studies, and Theater. The college has increased its full-time faculty by 40 percent, and has added professional schools in business and education. Three graduate degree programs are now offered—in music, communicative disorders and in geographic information systems—the latter a collaboration with the internationally known GIS company ESRI, which is also headquartered in Redlands.

The success of the university is easily measured: The student body today is 2,450 in the undergraduate schools, and an additional 1,965 in the graduate programs. The endowment is now in excess of $107 million, and the university has raised $70 million of a $100 million Centennial Campaign begun in 2004.

As a member of Congress representing Redlands, I have been pleased that my colleagues have seen fit over the years to provide federal funds to further innovative programs at the university. The returns on the investment have ranged from informative studies on desert environment systems to new methods for teaching technology to classroom teachers. I have found it especially rewarding to work with my friend Jim Appleton, who has shown such dedication to his university and to the city we both call home.

Mr. Speaker, after 18 years as president, Jim Appleton has decided to ''retire'' and become university chancellor. I ask my colleagues to join me in thanking him for his years of service to the education of our young people, and wish him and his wonderful wife Carol the utmost success in their future endeavors.

A PROCLAMATION RECOGNIZING MAYOR JACK FENTON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. NEY. Mr. Speaker:

Whereas, Mayor Jack Fenton has provided outstanding service and contributions while serving as the Mayor of Zanesville from 1995 to 2005; and

Whereas, Mayor Fenton served his community as Assistant Fire Chief from 1978 to 2005 and served as Director of Public Safety for the City of Zanesville and the Zanesville/Muskingum County Chamber of Commerce; and

Whereas, Mayor Fenton has worked selflessly and with dignity as an integral part of the community through 46 years of public service.

Therefore, I join with Mayor Fenton's family, friends, the residents of Zanesville, and the entire 18th Congressional District of Ohio in commending Mayor Jack Fenton for his exceptional work and years of service, and wish him the very best in his future endeavors.

HONORING DR. JAMES TERRY

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HENSARLING. Mr. Speaker, I rise today to recognize the exceptional achievements of Dr. James Terry, Superintendent of the Mesquite Independent School District. On January 10th of this year, Dr. Terry announced his intention to retire at the end of the school year bringing a close to his long and distinguished career as an educator. For the past 42 years, his students have been at the heart of each of his decisions. Dr. Terry has been a strong role model and exceptional educator for the children of east Texas as both a teacher and administrator. The students, parents, and teachers of the Mesquite Independent School District will greatly miss his leadership and educational vision.

Although his career has steered him through both Beaumont and Dallas, Dr. Terry and his wife Frances Louise Gilbert quickly settled in their eventual home of Mesquite, Texas. His first assignment in Mesquite was as a math teacher, but before long he moved into a variety of administrative positions before assuming the responsibility of Superintendent in July of 2001. Along the way, he amassed a trophy case of awards including the 1999 Administrator of the Year Award from the Texas Professional Educators and also earned the Golden Deeds for Education Award in 2004.

Dr. Terry, who received his undergraduate, masters, and a doctorate degree from East Texas State University in Commerce, Texas, has always believed that proper education required a hands-on approach. Upon assuming the role of superintendent, he immediately set out to visit each of the 42 schools in his district to share his plans and vision for the upcoming school year. Since that time, he has always made it a priority to spend some time at each of the schools and with the more than 34,000 students for which he is responsible.

On top of his numerous accomplishments in the classroom and in the superintendent's office, Dr. Terry has also demonstrated his commitment to public education through his membership and leadership roles in several educational organizations. Over the course of his career, he has served on the President's Education Advisory Council for the Texas A&M University System and in the Regents' Initiative for Excellence in Education through Texas A&M—Commerce. In addition, he was a member of the Executive Council of the East Texas School Study and has served as president of the North Central Texas Association of Supervision and Curriculum Development.

As the Congressman for the Fifth District of Texas, I am pleased today to recognize my friend, Dr. James Terry for his many years of public service and for the outstanding contributions he has made to make his community and his country a better place. Dr. Terry, on behalf of all of the constituents of the Fifth District, especially those in Mesquite, I would like to extend our most sincere thanks and praise for a job well done.

IN HONOR AND REMEMBRANCE OF GREGORY ANTHONY D'ANGELO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Gregory Anthony D'Angelo, beloved husband, father, grandfather, great-grandfather, brother, WW II Veteran, and dear friend and mentor to many. Mr. D'Angelo's life was framed by kindness, tenacity, integrity and heart, and although he will be

greatly missed, he deeply touched the lives of everyone he knew.

Mr. D'Angelo was a true renaissance man, whose mastery of the carpentry trades, artistry in the boxing ring, and expertise in the field of aeronautical mechanics belied his kind and compassion heart. His main focus was always his family. Together, Mr. D'Angelo and his beloved wife of 54 years, ''Millie,'' raised their five children.

A devoted husband and father, Mr. D'Angelo worked diligently to provide for them. Whether driving a truck, climbing into the boxing ring, or creating the Prehistoric World Diorama at Disneyland, Mr. D'Angelo did so with commitment, heart and grace. Though unimpressed by awards and accolades, his work at Disneyland captured the attention, honor and respect of Mr. Walt Disney himself. In addition to Mr. Disney, Mr. D'Angelo captured the honor, respect and love of those who loved and knew him best—his family and friends.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Gregory Anthony D'Angelo. I offer my deepest condolences to his wife and companion of 54 years, Millie; his children, Joseph, Kathleen, Annie, John and Susan; his daughters-in-law, Robyn and Susan; his sons-in-law, Charles, Willie and Curt; his 12 grandchildren and 4 greatgrandchildren; his sister, Stella; and to his extended family and many friends. Mr. D'Angelo left this world with a legacy that shines love and light upon his family, friends and community. His joy of life, caring heart and concern for others defined his life and will live on in the hearts of all who knew and loved well, today, and for all time.

THE INDENTURED SERVITUDE ABOLITION ACT OF 2005 INTRODUCTORY STATEMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to introduce the Indentured Servitude Abolition Act of 2005. At a time when the President and many Members of this House are discussing legislation to greatly expand the number of foreign workers who come to the United States legally for work, we must ensure that they are not indentured servants who owe unconscionable fees to recruiters.

One hundred and forty years ago, the American Civil War ended. Slavery and involuntary servitude were prohibited throughout our nation by the adoption of the 13th Amendment to the Constitution. And yet, as has been well documented in the press, thousands of men (and especially women) endure abuse as indentured servants because, as a condition of securing a job, they must pay exorbitant fees to labor recruiters—fees it can take years to payoff. The problem of recruiter-related indentured servitude has been well publicized in the Commonwealth of the Northern Mariana Islands, but it is a problem throughout this country, and it will grow as more guest workers are permitted. Foreign labor contractors lure workers to the United States by promising them a better life with decent wages and good jobs in exchange for thousands of dollars in fees. Instead, workers arrive in the U.S. only to find that they were cruelly deceived. They earn unlivable wages for menial jobs to which they never agreed, with no insurance or health care, and deeply in debt to the recruiter for bringing them to their new home.

Sadly, those are the least of their worries. Workers endure sweatshop conditions and back-breaking work for inhumanly long hours. They are forced to work through illness and injury with only one day of rest per week. Employers automatically deduct the majority of their weekly pay for room and board, often for living situations not fit for animals and starvation rations, leaving workers with a few dollars if not further in debt. And that is when their wages are not withheld, a frequent occurrence. Most distressing of all, many workers suffer physical violence at the hands of their employers and are threatened if they should try to leave. Unable to pay off debt manufactured by the recruiters and their employer and fearing for their lives, workers are trapped.

This is not an exaggeration: it is the disturbing reality for thousands of workers in this country. This is not employment opportunity: it is indentured servitude, and it should not be occurring in the United States in 2005. Just this week investigations into La Mode Inc., a Saipan company that unlawfully suspended operations while owing workers back wages of more than $395,000, revealed that Chinese employees were required to pay recruitment fees of $4,500 to $8,000 for the privilege of working at a job that pays barely $3 an hour, and then being unlawfully terminated before the expiration of their contract, cheated out of their pay, and abandoned in a strange land.

This deplorable practice not only undermines living standards, it ruins lives. It is a violation of basic human rights that leaves workers as indentured servants, forcing them to endure a form of modern day slavery. The Indentured Servitude Abolition Act of 2005 will end this cruel practice by providing for tough legal accountability for foreign labor contractors and employers.

The ''Indentured Servitude Abolition Act of 2005'' holds recruiters and employers responsible for the promises they make to prospective employees, and discourages employers from using disreputable recruiters. The bill requires employers and foreign labor contractors to inform workers of the terms and conditions of their employment at the time they are recruited. It makes employers jointly liable for violations committed by recruiters in their employ. It imposes fines on employers and recruiters who do not live up to their promises and authorizes the Secretary of Labor to take additional legal action to enforce those commitments. Employers and recruiters are prohibited from requiring or requesting recruitment fees from workers and are required to pay the costs, including subsistence costs, of transporting the worker.

The bill discourages disreputable labor contractors by requiring the Secretary of Labor to maintain a public list of labor contractors who have been involved in violations of the Act and by providing additional penalties if employers use a contractor listed by the Secretary as having been involved in previous violations of this Act and that contractor contributes to a violation for which the employer may be liable. The remedies provided under the ''Indentured Servitude Abolition Act'' are not exclusive, but are in addition to any other remedies workers may have under law or contract.

The legislation I am introducing has been endorsed by the Farmworker Justice Fund, the National Employment Law Project, and the AFL-CIO. The National Employment Law Project notes that ''labor recruiters currently enjoy a near total lack of accountability for the workers' job conditions'' and that the bill performs ''an important service by requiring both the users of the labor and the recruiters themselves to inform workers on the job conditions they can expect.''

The Farmworker Justice Fund notes that the legislation addresses, ''the new reality of global labor migration. . . . In many cases foreign workers who are recruited for U.S. jobs suffer harsh abuses in the form of huge debts, usurious loans, threats of violence, false promises, and illegal wages and working conditions. . . . We must gain control over labor migration and this is one important step toward that goal.''

Is it too much to ask that people who live on American soil, making products for American consumption, be treated like American workers? Our basic respect for human rights demands that we act now to protect these workers. I am pleased that 24 of our colleagues have joined me as original cosponsors of this bill. I am hopeful that all of our colleagues, on both sides of the aisle, will add their support to this critical legislation to end the despicable practice of slavery in the United States once and for all. Mr. Speaker, I urge Members of the House to join me and co-sponsor the Indentured Servitude Abolition Act of 2005.

IN SPECIAL RECOGNITION OF MICHAEL H. PERSIANI ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Michael H. Persiani of Perrysburg, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Michael's offer of appointment positions him to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Michael brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending St. John's Jesuit High School in Toledo, Ohio, Michael has attained a grade point average of 3.90, which places him near the top of his class of nearly two hundred students. While a gifted athlete, Michael has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Michael has been a member

of the National Honor Society, Honor Roll, French Club and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Michael has distinguished himself as an excellent student-athlete. On the fields of competition, Michael has earned letters in Varsity Hockey and Tennis. He was named Captain of the Varsity Hockey team and served as President of the French Club. Michael's dedication and service to the community and his peers has proven his ability to excel among the leaders at the United States Air Force Academy. I have no doubt that Michael will take the lessons of his student leadership with him to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Michael H. Persiani on his appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Michael will do very well during his career at the United States Air Force Academy. I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

INTRODUCTION OF LEGISLATION TO EXTEND ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS PENSION BENEFITS

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. RAHALL. Mr. Speaker, today I am introducing two bills that pay tribute to those service personnel who have nobly served our Nation in times of conflict. In both cases, the legislation extends pension benefits to those veterans who served in harm's way, though not in a time of declared war.

Under current law, you may only draw a full pension if you served in combat during a declared period of war. This distinction served its purpose well during many of America's 20th Century engagements, as our involvement in those wars was clearly defined. World Wars I and II and the Vietnam War are prime examples.

However, American service personnel have served—and faced heavy fighting—in conflicts that have not been declared ''war'' by our government. Case in point is Korea. Our Armed Forces lost 33,741 dead in that conflict, even though President Truman called our participation a ''police action'' and never asked Congress for a formal declaration of war.

The point of the matter is that while war is not always clearly defined, the sacrifice of our service personnel is.

With the support of the American Legion and noted West Virginia veteran John Peters, I introduce these bills to correct what many believe is an inequity in determining veterans' pension benefits. The first bill would provide the basic guarantee of a pension to those who served in Korea, Lebanon, Granada and Panama. In each case, American service personnel were faced with significant danger and, again in each case, American lives were lost. With this in mind, I believe it is imperative that our government provide veterans of those conflicts with appropriate pension benefits.

The second bill I am introducing would extend pension benefits to those servicemen and women whose actions earned them the Expeditionary Medal. For those who are unfamiliar with what an Expeditionary Medal is, or the actions for which it is awarded, the Joint Chiefs of Staff must determine that the service personnel is engaged where hostile action by foreign armed forces is imminent. Again, I believe those who have put their lives on the line in defense of our country, especially when recognized by the Joint Chiefs, deserve the benefits a military pension provides.

The United States has sent service personnel to all corners of the globe to defend our freedoms and way of life. In all cases, our troops have served nobly and honorably. In several cases, war has been declared officially—and those who participated in those actions certainly deserve to receive a military pension for their sacrifice. However, American personnel have also served in conflicts not officially declared war, and have been faced with incredible dangers. To these veterans I say you deserve the same pension benefits afforded your brothers and sisters in arms who participated in declared wars. I urge Congress to pass these critical bills.

WILLIAM ''LES'' BROWN: A LEGACY OF INSPIRATION AND ACTIVISM

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. SCHAKOWSKY. Mr. Speaker, later this month, people in Chicago will gather to celebrate the life and achievements of William ''Les'' Brown. Les Brown had an enormous influence on the way our nation thinks about homelessness. He was a person of intelligence, creativity, passion and caring who showed that we can each make a difference in helping to create communities that provide support and opportunities for every individual. I am fortunate to have known and been inspired by Les and I, like many Chicagoans, will miss him.

Les Brown was best known as the founder of the Chicago Coalition for the Homeless, formed in 1980 with the help of the Travelers and Immigrants Aid Society, the Jewish Council on Urban Affairs, and other service providers. Karen Singer, executive director of the YWCA Evanston/North Shore, called him the ''moral compass'' of the movement to end homelessness. Ed Shurna, the current executive of the Chicago Coalition for the Homeless, acknowledges him as ''the chief strategist and idea man behind most of the Coalition's successes'' in providing housing, jobs programs and health care for the homeless.

A social worker, former Air Force medical corpsman and a blues pianist, Les Brown used all of his skills to push for solutions. While others ignored the problem, he taught us that homelessness can be solved and that individuals living on the street deserve to be treated with dignity. In 1983, he organized the first national conference on homelessness in Chicago. In 1984, he underwent a heart transplant but never let that slow him down or limit his dedicated activism. For his entire life, he fought to keep this issue at the top of the political agenda, reminding us that the homeless are not nameless beings or numbers, but infants and children, working mothers and fathers, returning veterans and those living with illnesses who deserve our support and a safe, decent place to live.

Les Brown grew up in rural Georgia, where he learned his values from his parents, who taught him the values of fairness and social justice. It was the love of the land that he developed in childhood that gave him the inspiration for ''Growing Home,'' an initiative that helps the homeless learn job skills at an organic farm in Marseilles, Illinois. According to Les, ''Homeless people often are without roots. They're not tied down, connected, not part of their family anymore. Our organic farming program is a way for them to connect with nature—to plant and nurture roots over a period of time.

When you get involved in taking responsibility for caring for something, creating an environment that produces growth, then it helps you to build self-esteem and feel more connected.''

There are concrete reminders of Les Brown's accomplishments throughout the Chicagoland area—low-income housing units that would not have been built without him, organizations and coalitions that would not exist but for his leadership, initiatives like Growing Home that grew from his vision. Some of the best evidence of his legacy can be found in the people he touched and motivated and who will carryon his work.

Les Brown had an enormous impact and influence on the people he met, creating a generation of advocates who will follow in his path. One of them, Fred Friedman, wrote the following in commemoration:

LES BROWN'S LEGACY

Les Brown died the other day. I did not know him very well or very long but he was very dear to me.

I first met Les when I was still living in a homeless shelter. As you might guess, it was at a meeting about homeless youth. Later, he was kind enough to see me in the office of the Chicago Coalition for the Homeless. I was trying to decide what, if anything, to do with my life. At that meeting, I told him that people, including myself, sometimes had trouble seeing me as anything other than a mentally ill homeless person. He said that he understood, and that some people had trouble seeing him as anything other than a person with a bad heart. I am sure that was a lie, Who could think Les had a bad heart? However, it was incredibly kind.

I got to know him a little better at many endless Continuum (of Care) meetings. Eventually, he nominated me for the Governing Board of the Continuum. Still later, he, along with Paul Selden and I, founded Next Steps, NFP. Still later, I got to hear him play a mean Jazz piano.

I do not know his family, or if he left any property to them, but I do know that he left me a great legacy. Les saw people without homes and tried to find them homes. He saw hungry people and tried to feed them. He saw people without power, and tried to empower them. He saw people without hope and tried to give them hope. He took his work, but not himself, seriously. He could disagree without being disagreeable. He understood that good people could disagree with him, and that he could be wrong. In short, Les left me a legacy of trying and working, even when trying and working seems silly. In other words, he left me legacy of hope. I promise to use that legacy to continue his fight, until no one

goes to bed hungry, and everyone has a home and hope.

IN HONOR OF THE MONTEREY COUNTY HEAD START PROGRAM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. FARR. Mr. Speaker, I rise today to honor the 40th anniversary of the Monterey County Head Start Program. The program provides a comprehensive child development program to preschool children whose families live below poverty level. The Monterey County Head Start Program is dedicated to serving and supporting the communities of Monterey County through educational development of children that fully prepare them for school and their experiences in life.

The Monterey County Head Start Program originated in Castroville in June 1965 with the help of the Community Action Agency. The program expanded to Salinas and Seaside in 1975 with grant support from the Monterey County Office of Education. Now, the Head Start Program operates 26 preschool centers in Monterey County, providing services to well over one-thousand children and their families. Their goal to provide the highest quality program for the children and families in the county has been very successful.

Every child in the Head Start Program is provided the highest quality child development program based on the internationally acclaimed, research-based High Scope Curriculum. Physical and dental examinations are given to each child, as well as an individualized educational program to suit each child's needs. The program also offers the Early Head Start Program which is designed to provide assistance to qualifying pregnant women, infants, and toddlers; as well as parent education for nutrition, first aid, and self-sufficiency skills. Truly, this is an inclusive program that has enhanced the lives of so many residents in the 17th district.

Mr. Speaker, I wish to congratulate the Monterey County Head Start Program for forty years of outstanding service. The Head Start staff performs an exceptional job daily facilitating school readiness for children and fostering lifelong independence and personal responsibility for low-income families. The Monterey Head Start Program provided services to over thirty-thousand children and families in the rural and urban communities of Monterey County, and our community is immensely grateful for their contribution.

TRIBUTE TO BILL HORNER, JR., A RESPECTED NEWSMAN

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. ETHERIDGE. Mr. Speaker, I rise today to note the passing of a distinguished gentleman. Bill Horner, Jr., the former publisher of The Sanford Herald, was a great North Carolinian. He died last month after a 3 year battle with cancer, and is survived by a fine and loving North Carolina family. I ask permission to submit for the RECORD several newspaper reports on this sad occasion.

BILL HORNER JR., 67, NEWSMAN WAS PUBLISHER OF THE SANFORD HERALD

(From the Associated Press)

SANFORD.—Bill Horner Jr., the middle man in a family tradition of publishing The Sanford Herald, died Thursday of cancer, the newspaper reported. He was 67.

Horner died in Sunset Beach, where he had moved after his retirement 7 years ago.

Beginning in the 1960s, William Edward Horner Jr. worked in all departments of the paper before he finally followed in the footsteps of his father, Herald founder W.E. Horner, as publisher in 1991.

He retired April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky. His son, Bill Horner III, is the current publisher.

Horner was born in Sanford and graduated from Sanford Central High School. As a youth, he delivered the Herald on his bicycle and later spent afternoons and evenings working in the mailroom.

He earned an English degree at UNC-Chapel Hill in 1959, working in the newspaper industry during the summers.

Horner served 2 years in the Navy after graduation, then returned to the Herald at the behest of his father, who told his son he would start as a printer's devil.

''I had some idea of what a printer's devil was,'' Horner wrote in 1980, ''and it didn't sound nearly as flashy as being a lieutenant (jg) in the U.S. Navy.''

But he came home nevertheless, working in the print shop and then moving on to other parts of the newspaper, including the newsroom.

He gradually assumed a greater role in the management of the newspaper, taking over major decisions about the business upon W.E. Horner's semiretirement in 1966 at the age of 65.

''Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss,'' said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor.

''He loved this newspaper and was a strong leader as both general manager and publisher. I am grateful to have known Bill, and I shall miss him.''

In addition to his son, he is survived by his daughter, Belinda Horner Cooper of Hampstead; close friend Carol Bowman of Sunset Beach; sisters Louise Horner Bowles of Greensboro and Nancy Horner Hulin of Carolina Beach; four grandchildren; and two nieces and a nephew.

The family asks that, in lieu of flowers, people consider making donations to the Lower Cape Fear Hospice & LifeCareCenter, 10 Doctors Circle, Suite 4, Supply, NC, 28432, or to the charity of their choice.

A memorial service is scheduled for 11 a.m. Tuesday at St. Luke United Methodist Church.

[From the Sanford Herald]

FORMER HERALD PUBLISHER, 67, DIES

SUNSET BEACH.—Former Herald Publisher Bill Horner Jr., who oversaw the newspaper's conversion from ''hot-type'' to ''cold-type'' offset printing, died Thursday of complications following a three-year battle with cancer.

William Edwin Horner Jr., 67, was the son of Herald founder W.E. Horner, who died in 1994, and father of current publisher Bill Horner III. A memorial service is planned for 11 a.m. Tuesday at St. Luke United Methodist Church, where Horner was a member. The Rev. Bob Yandle, a friend of Horner's for many years, will officiate.

Diagnosed with esophageal cancer in the fall of 2001, Horner underwent surgery for the disease on two occasions and was in remission for a time, but the cancer returned and his health declined steadily in the last year.

In addition to his son, he is survived by his daughter, Belinda Horner Cooper, of Hampstead, and her husband Billy; his special friend Carol Bowman of Sunset Beach; sisters Louise Horner Bowles of Greensboro and Nancy Horner Hulin of Carolina Beach; and grandchildren William E. ''Zachary'' Horner IV, Addison Horner and Karis Horner, children of Bill III and his wife, Lee Ann. Also surviving are nieces Cheryle Hulin Brown of Knightdale and Laura Bowles Warren of McLean, Va., and nephew Jim Hulin of Jamestown.

In addition to his father, Horner was preceded in death by his mother, Nannie Andrews Horner, in 1978.

Horner was born in Sanford and graduated from Sanford Central High School, completing his high school degree while working afternoons and evenings in the mailroom of The Herald. Upon turning 12 years old, he took a bicycle paper route that served 125 customers in a section of downtown Sanford near the family home. Following high school, he attended the University of North Carolina at Chapel Hill, earning a degree in English in 1959.

During his college years, he stayed close to the newspaper business—working one summer as a reporter for The Raleigh Times, the now-defunct sister newspaper of The News & Observer, and another selling subscriptions door-to-door in rural Kentucky for The (Louisville) Courier-Journal.

After his graduation from Chapel Hill, Horner—who was a part of the Reserve Officer Training Corps during his college years—was commissioned as an ensign and called up for a two-year hitch with the Navy. He spent most of that time aboard the aircraft carrier U.S.S. Forrestal as chief disbursement officer on the ship's supply officer staff.

Horner wrote in the 50th anniversary edition of The Herald in 1980 that while aboard the Forrestal, his duties ranged ''from being disbursing officer in charge of the ship's finances and safes, in which I kept more than $7 million in cold, hard cash, to being an assistant stores officer when about all I had to do was check storerooms to make sure the pliers, wrenches and ballpoint pens were counted correctly.''

Eventually promoted to the rank of lieutenant (junior grade), Horner was about to disembark in Naples, Italy and fly back to Norfolk, Va., for mustering out when he wrote he ''received THE letter from the 'old man'—not the Navy one, the Herald one.''

Horner said his father detailed plans in the letter for his son to come back to the newspaper to formally learn the trade—beginning with the job of ''printer's devil'' in the newspaper's ''back shop,'' and then learning to operate a linotype machine, before moving to the other departments of the operation.

''I had some idea of what a printer's devil was,'' Horner wrote in 1980, ''and it didn't sound nearly as flashy as being a Lieutenant (jg) in the U.S. Navy.''

By then, he was married to his first wife, the former Shirley Prendergast, whom he met in the Navy, and Horner eventually worked his way through all departments of the newspaper, even serving as interim editor for a period in 1964.

One of his experiences that same year as a reporter, he'd later say, showed him the importance of a newspaper's role in the community.

He was assigned to cover a gathering of the local chapter of the Ku Klux Klan, which was

active in Lee County at the time. After being searched for weapons and a camera, Horner was allowed to enter the area where the Klan was preparing for a cross burning. He furiously scribbled notes about what he saw, and when it was all over with, he headed back to his car. ''I got stopped by one of the Klan's security guards on the way out,'' he'd later say. ''They searched me again and found my notebook. They wanted to see what I had written, so I showed it to them—but I handed them my notebook upside down. One of the guards looked at it for awhile—nobody could read my handwriting except me—and gave it back and said, 'OK, you can go.' I came back and wrote the story.''

Horner gradually assumed a greater role in the management of the newspaper, especially upon W.E. Horner's ''retirement'' in 1966 at the age of 65. The elder Horner never really left the business, keeping an office and writing the ''Good Afternoon'' column nearly every day until the mid-1980s. But he did leave the major decisions about the business to his successor. The son eventually succeeded the father as publisher in 1991 and retired on April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky.

''Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss,'' said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor. ''I shall forever be indebted to Bill for hiring me and for the encouragement he gave me over the years. He loved this newspaper and was a strong leader as both general manager and publisher.''

''I am grateful to have known Bill and I shall miss him.''

Robert Stone worked at The Herald for 44 years, retiring in 1996.

''He understood that a local newspaper is all about local news,'' Stone said of Horner. ''And I think, really and truly, he understood better that the employees were the important part of the organization.

Charlie Welborn, a partner with the accounting firm of Davenport, Marvin, Joyce & Co., was a best friend of Bill Horner III and eventually became the newspaper's accountant—and a close friend of Bill Jr.'s as well.

''Bill was a very successful businessman who carried on the tradition of The Herald that was founded by his father,'' Welborn said. ''I enjoyed the business relationship that we had, but more importantly he was a very good friend. I visited him often at the beach and he was always interested in the news from Sanford/Lee County. He would reminisce about his career, family and friends. I will miss him greatly and feel that I am a better person for having known him.''

A former member of the Kiwanis Club of Sanford and the Rotary Club of Sanford, Horner was a lifelong member of the General Alumni Association of UNC and was also active on the boards of directors of several local organizations, including Southern National (and later BB&T) Bank.

He served a term as a director for the North Carolina Press Association—an organization for which both his father (in 1939) and son (in 2002) both served as president—and was a member of St. Luke United Methodist Church.

Horner moved to Sunset Beach a few months after his retirement and became active as a member of the board of directors of the Providence Home Family Emergency Teen Shelter in Southport, and played a key role in the organization's fund-raising efforts.

He enjoyed sailing and for many years held a private pilot's license and built and flew his own remote-control airplanes. He was an experienced gardener and ham radio operator, and once talked to explorer and adventurer Thor Hyerdahl during one of Hyerdahl's ocean-crossing raft trips, as well as to King and Queen Hussein of Jordan. He enjoyed reading and classical music and was a keen observer of current events and world politics.

In lieu of flowers, the family has requested friends consider making donations or memorials to the Lower Cape Fear Hospice & LifeCareCenter, 10 Doctors Circle, Suite 4, Supply, N.C., 28432, or to the charity of their choice.

Arrangements are by Brunswick Funeral Services in Shallotte and Rogers-Pickard Funeral Home. The family will receive friends following the memorial service at the home of Bill Horner III.

[From the Dunn Daily Record]

STATE LOSES RESPECTED NEWSMAN

Please allow us to note the passing of a friend and colleague in North Carolina's newspaper community. Bill Horner Jr., former publisher of The Sanford Herald in neighboring Lee County, died Thursday after a three-year battle with cancer.

At just 67, Mr. Horner died in Sunset Beach, where he had moved after his retirement seven years ago.

Having grown up in a newspaper family, Mr. Horner stayed close to the business during his college years, working one summer as a reporter for The Raleigh Times, the now-defunct sister newspaper of The News & Observer, and another selling subscriptions door-to-door in rural Kentucky for The (Louisville) Courier-Journal.

After graduating from the University of North Carolina at Chapel Hill in 1959, Mr. Horner—who was part of the Reserve Officer Training Corps during his college years—was commissioned as an ensign and called up for a two-year hitch with the Navy. He spent most of that time aboard the aircraft carrier U.S.S. Forrestal as chief disbursement officer on the ship's supply officer staff.

After his military service, he returned to The Herald at the behest of his father, Herald founder W.E. Horner, who told his son he would start as a printer's devil.

He worked in the newspaper's print shop and then moved on to other parts of the newspaper, including the newsroom. He gradually assumed a greater role in the management of the newspaper, taking over major decisions about the business upon his father's semi-retirement in 1966 at the age of 65.

Having worked in every department of the paper, Mr. Horner took over as publisher in 1991. He retired on April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky. His son, Bill Horner III, is the current publisher.

Bill Horner Jr. was a respected newspaper man who built on the success of his father. Under Bill Horner Jr., the newspaper made strides in technology and in its community service, consistently winning awards from the North Carolina Press Association.

''Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss,'' said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor. ''He loved this newspaper and was a strong leader as both general manager and publisher. I am grateful to have known Bill and I shall miss him.''

Another longtime Herald staffer, Robert Stone, worked at the newspaper for 44 years, retiring in 1996.

''He understood that a local newspaper is all about local news,'' Mr. Stone said. ''And I think, really and truly, he understood better that the employees were the important part of the organization.

With his passing, the Sanford community—and that state's newspaper community—has lost a dear and respected friend.

CONGRESSMAN KILDEE RECOGNIZES AMERICAN RED CROSS EVERYDAY HEROES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KILDEE. Mr. Speaker, I stand before you today on behalf of one of our country's most honored and respected organizations, the American Red Cross. Each year, the Genesee-Lapeer Chapter of the Red Cross acknowledges individuals who have shown tremendous courage, kindness, and selflessness through acts of goodwill and heroism. Twenty-five such people will be honored May 13, at the 2005 Salute to Everyday Heroes.

Everyday Heroes are chosen by the Red Cross from several categories: Fire, Law Enforcement, Emergency Medical Response, Community Good Samaritan, Youth Good Samaritan, Adult Good Samaritan, and Workplace Good Samaritan. Nominees are selected for acts of bravery related to fire, rescue, and lifesaving, and are awarded to those who live in Genesee or Lapeer Counties, or if the rescue occurred in one of the two counties.

Deputy Lawrence Fields is this year's Law Enforcement Everyday Hero, and Lieutenant John Speck is the Emergency Medical Response Hero.

Good Samaritan Awards will be given to: The Honorable Judge Duncan Beagle (Community), Robert Duffy (Workplace), Deputy Dave McDonald, Christopher Tanner, Jerry Scheddel, and Raymond Hile (Adult), and Matthew Harris (Youth).

Those receiving the Fire Everyday Hero Award include: Tony Windham, Chad McBride, Jim Bennett, Jasen Stevens, Firefighters Edward Reynolds, Jeffery George, Jeremy Gilbert, Michael Gist, Robert Parrish, Michael Rose, Tony Terry, and Robert Winford, Lieutenants Yaskuo Hall and Martin Juarez, and Captain Raymond Barton.

A special Spirit of Heroism award will be given posthumously to Ms. Cherica McLemore of Flint. Ms. McLemore's life was tragically cut short last January, as a car struck her after she stopped to help victims of another crash.

Mr. Speaker, I applaud these courageous men, and the life of this caring young woman, for all they have done for others. Through their actions, they gave a priceless gift—a second chance at life. Their contributions are deserving of the highest respect, and I ask my colleagues in the 109th Congress to please join me in recognizing them for who they truly are—heroes.

RECOGNIZING ROBERT ''BOB'' BURGER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. KAPTUR. Mr. Speaker, I rise today to recognize longtime community resident Robert

"Bob" Burger for his leadership, determination and dedication as a community leader in Toledo, Ohio.

Bob Burger, "Mr. Neighborhood," who recently turned 80 years old, has given unselfishly of his time and ability to help rebuild and revitalize our city, particularly the East Toledo neighborhoods. Beginning in his home community of East Toledo and then extending his reach for community betterment city wide, he started this quest back in 1972 when he founded River East Associates and served as its first president. Mr. Burger also played a major part in the creation of River East Revitalization Corporation in 1974; that organization helped create a comprehensive plan for redevelopment of East Toledo's main business district along Main Street, Front Street and Starr Avenue.

Mr. Burger is particularly well known in our community as a director of the Neighborhood Improvement Foundation of Toledo, Incorporated (NIFTI) from 1978 through 1994. He is also well known in our community as a veterans leader. He is currently commander of the Arthur Daly American Legion Post 334 and he previously served as commander of the Veterans of Foreign War Post 2510 in 1974 and 1975.

No one of us can ask more than to be given the years to do good for others. Bob Burger's patriotic dedications have yielded exactly that—and inspired an entire city to take hold of itself and transform it parcel by parcel, block by block into the Toledo for tomorrow. The power of his gentle personality, his kindness, skill, and vision have helped enlarge and build forward a real ethic of community in Toledo. How fortunate we are.

Such are his contributions to our community that Toledo City Council has begun the process of renaming a portion of Starr Avenue as "Bob Burger Avenue," which is only appropriate because it is located in the heart of the River East Main business district that Mr. Burger has done so much to promote and advance. For his part in revitalizing one of our great communities, I wish to recognize the contributions of Robert Burger and congratulate him on having a street renamed in his honor. It is particularly appropriate to name a major arterial in his home community in his honor for surely he has been a lifeline to the citizens of the community.

CELEBRATION OF NATIONAL NURSES WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. CUMMINGS. Mr. Speaker, as I rise today to celebrate National Nurses Week, May 6–12, 2005, I would like to start off by reciting a passage of a poem written for Florence Nightingale—the original nurse who began the revolution that would bring us the health care we know today:

Now God sent this woman to succour the brave
Some thousands she saved from an untimely grave
Her eyes beam with pleasure, she's bounteous and good
The wants of the wounded are by her understood.

Mr. Speaker, while this poem was a dedication to the care and ease the "Lady-in-Chief', as Florence Nightingale was called during the Crimean War, brought to the soldiers as they laid in pain, it can easily be applied to the nurses that are thoughtfully attending to the needs of the sick and wounded today.

From a mere ache in the neck, to recovery after surgery, nurses are the ones who are consistently by their patients' side, taking care of their daily needs. By the time a patient leaves, his or her nurse will know not just what the patient needs in order to complete his or her medical treatment, but what makes the patient laugh and what makes the patient cry. A great nurse makes the difference between a tolerable stay in the hospital and endurable pain, or an insufferable wait and excruciating agony.

Today, our country relies on the tender care of 2.4 million nurses, who are truly the silent heroes of our health care system. Their diverse occupation provides comfort to women and men of all ages, illnesses, and professions, beginning from their first day on earth to their very last. Nurses across this country deserve the same support and consideration as they have given to us, and as I stand here today to honor their tireless work and selfless acts.

Mr. Speaker, I also ask my colleagues to join me in giving their undivided attention to the crisis of nurse shortage in our nation.

Mr. Speaker, as health care costs continue to rise, and as the number of uninsured has climbed to its highest number ever of 45 million Americans, nurses across this country are being overstretched and underappreciated. Consequently, the backbone of our health care system is starting to falter, as the number of registered nurses drops to its slowest growth rate since 1980.

Enrollments in nursing schools are not meeting the demands of the population, and job burnout is causing current nurses to leave the profession. According to the June 2001 issue of TrendWatch published by the American Hospital Associations, 75 percent of vacancies in hospitals nationwide are nursing positions.

Mr. Speaker, for the first time in history, the nurses of our country are suffering in a wounded profession. Let us work together to ensure that incentives are provided so that the younger generation considers becoming a part of one of the oldest and most venerable professions again. Let us be at the side of our nurses as they are at our side during our time of need.

It took nurses 29 years before they were able to get a week of recognition for all of the hard work they put into our society year-round. Let us make sure it doesn't take another 29 years before we start tending to the needs of their profession. They need more training, more research and more resources—I hope our budgets begin to reflect these priorities.

Lastly, I want to recognize our colleagues who served as nurses prior to joining us in the House of Representatives—EDDIE BERNICE JOHNSON, LOIS CAPPS and CAROLYN MCCARTHY. I applaud your tireless work in raising nursing issues to a level of national significance, thereby improving our nation's healthcare delivery system.

CONGRATULATIONS TO MAURIZIO IZZI, NEW AMERICAN CITIZEN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in congratulating Mr. Maurizio Izzi of Rome, Italy, and in welcoming him as he becomes a fellow American citizen. On May 11, 2005, Mr. Izzi will take the oath of allegiance at Faneuil Hall in Boston. On Saturday, May 14, family and friends will gather to celebrate this milestone in Mr. Izzi's life.

Mr. Izzi follows in the tradition of his great aunt, Maria Valente, who became a citizen in 1961 and now resides in Arlington, Massachusetts. In the year 2000, Mr. Izzi took his first job in the United States at the Empire State Building as a Configuration Management Consultant. On May 20, 2000, he married his lovely and charming wife, the former April Peloquin. They now reside in Hopedale, Massachusetts.

Mr. Speaker, we are all fortunate to live in this land of opportunity, and Mr. Izzi embodies the qualities that have made our nation great: a spirit of perseverance, industriousness, devotion to family and love of country. It is a pleasure to welcome him as a fellow American citizen.

IN HONOR OF MR. JOHN PEDRO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. FARR. Mr. Speaker, I rise today to honor the life of California Highway Patrol Officer John Pedro, an influential member of the Santa Cruz community. On June 3, 2002, Officer Pedro was tragically killed in a traffic collision that occurred while attempting to overtake and initiate an enforcement stop on a vehicle. Officer Pedro is survived by his wife Colleen, daughter Sara, mother, Kay and sisters, Kathy and Tammy.

Officer Pedro was born in Watsonville, CA on June 17, 1965 and graduated from Watsonville High School in 1983. He obtained an Associate of Arts Degree in Liberal Arts and Music. Officer Pedro joined the United States Military as an Army Reservist in 1989. He subsequently transferred to the Air Force Reserves in 1991. While playing trombone for the Air Force Band, he met the love of his life, Colleen. Officer Pedro married Colleen on March 27, 1993. They were soon blessed by the birth of their daughter, Sara, on March 19, 2000.

Officer Pedro entered the California Highway Patrol Academy on July 31, 1989 and graduated on December 21, 1989. His first assignment was with the San Jose CHP. He also worked in the Redwood City CHP, Hayward CHP, Coastal Division, Gilroy Inspection Facility, and Santa Cruz CHP. Throughout his career as an officer, Officer Pedro had always expressed a desire to develop his expertise in the field of commercial vehicles, specifically focusing on highway safety and enforcement.

Mr. Speaker, I am joined by Officer Pedro's family and fiends to honor his life and contributions to the community. In appreciation for

his duty, the California State Senate via Concurrent Resolution No. 67, officially designated the location of State Route 1 between Harkins Slough Road and the Pajaro River Bridge, in Santa Cruz County, as the ''CHAP Officer John Pedro Memorial Highway''. Through this dedication, our community will eternally remember the sacrifices made by Officer Pedro and others who have laid down their lives to fulfill a pledge of unwavering dedication to the people of the State of California

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. ETHERIDGE. Mr. Speaker, last week, on Roll Call vote 150, I was not able to vote. Please let the record show that had I been present, I would have voted Yes on House Resolution 210, supporting the goals of World Intellectual Property Day and recognizing the importance of intellectual property in the United States and worldwide.

IN TRIBUTE TO MIGUEL CONTRERAS

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. SOLIS. Mr. Speaker, I rise today, along with my colleagues from California, Ms. PELOSI, Mr. GEORGE MILLER, Mr. BACA, Mr. BECERRA, Mr. BERMAN, Ms. CAPPS, Mr. CARDOZA, Mr. COSTA, Ms. SUSAN DAVIS, Ms. ESHOO, Mr. FARR, Mr. FILNER, Ms. HARMAN, Mr. HONDA, Mr. LANTOS, Ms. LEE, Mr. LOFGREN, Ms. MATSUI, Ms. MILLENDER-MCDONALD, Ms. NAPOLITANO, Ms. ROYBAL-ALLARD, Ms. LINDA SÁNCHEZ, Ms. LORETTA SANCHEZ, Mr. SCHIFF, Mr. SHERMAN, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, and Ms. WOOLSEY, to pay tribute to Miguel Contreras, who died unexpectedly on Friday, May 6, 2005. As Executive Secretary-Treasurer of the Los Angeles County Federation of Labor and a Vice President of the California Labor Federation, Miguel was a friend to many of us in Congress from California. More importantly, he was a staunch champion for working families in Los Angeles and throughout the country whose leadership brought much needed vigor to our Nation's labor movement.

As the son of migrant farmworkers, Miguel grew up in Dinuba, California, where he worked in the Central Valley's fields from the age of 5 alongside his parents and 6 brothers. Following his parents' example, Miguel became active in the labor movement, where his skills were recognized by the legendary Cesar Chavez, who hired him as a union representative for the United Farm Workers. For 6 years, Miguel worked under Chavez, gaining critical leadership, strategic, and political skills at the helm of one of our Nation's greatest civil rights heroes.

Miguel later joined the Hotel Employees and Restaurant Employees' (HERE) Union Local 2 in San Francisco, where his coordination of a citywide major hotel walkout led to the biggest wage and benefit increases in history for the 14,000 member local union. His efforts spread beyond California to hotel organizing efforts in Nevada and New York.

Following a 3 year stint as political director of the Los Angeles County Federation of Labor, Miguel was elected Executive Secretary-Treasurer of the Federation in 1996. As head of the Federation, Miguel oversaw the operation of 350 local unions and more than 800,000 union members. Under his leadership, the Federation became a powerful voice for working families throughout Los Angeles, leading successful organizing and wage improvement campaigns for janitors, bus drivers, mechanics, trauma center workers, and thousands of other workers.

As the first Latino elected to head Los Angeles County's powerful labor organization, Miguel opened the door for thousands of Latino and immigrant workers throughout Southern California to the union movement and better wages and health benefits. In doing so, he transformed the face of not only the labor movement in Los Angeles, but of local, city, and State elected officials, and, inevitably, the city and State as well.

The Los Angeles County Federation of Labor has become a model for union organizations across the Nation. At a time when union membership is waning in other areas of the country, it grew quickly in Los Angeles County under Miguel's leadership. The superior labor organization he developed in Los Angeles and its successes are just a part of Miguel's enduring legacy to those most in need in our society.

As Members of the California Congressional delegation, we honor Miguel as champion for working families. We extend our deepest sympathy to his wife, Maria Elena Durazo, and his sons Michael and Mario, during this difficult time.

Miguel Contreras's passing is not only a tremendous loss for working families in Southern California, but also throughout the Nation. His tremendous strategic skills and dedicated passion to improving the lives of others are rare and will be missed sorely by thousands of working men and women he called his brothers and sisters.

COMMENDING THE MARINE CORPS OFFICERS OF THE 11TH SPECIAL BASIC COURSE ON THEIR 54TH REUNION

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. BORDALLO. Mr. Speaker, I rise to commend the Marine Corps officers of the 11th Special Basic Course who are celebrating the 54th anniversary of their commissioning with a reunion during the week of May 12–15, 2005.

The officers of the 11th Special Basic Course (11th SBC) at Quantico, Virginia, started training in the fall of 1951 and completed their training in March 1952. Although the class was a relatively small one, with just over two hundred officer candidates, they represented one hundred and eight different colleges and universities. Candidates from 36 States, the District of Columbia and Guam were in this class, making it one of the most representational Marine Corps basic officers' courses.

During the Korean War the class had its share of officers who distinguished themselves in combat. Rod Skinner, Harvard '51, was awarded the Congressional Medal of Honor posthumously for valor. John Word received the Navy Cross, the second highest award that our Nation can bestow for courage. Others were awarded the Silver Star, the Bronze Star, and the Purple Heart. The class also had its share of men wounded and killed in combat action.

Although only a comparatively few members became regular officers, many served and retired from the Reserves while pursuing careers in law, education, religious ministry, athletics, engineering, business, and politics. Among those who were career officers of the Corps was a former Member of Congress, the Honorable Ben Blaz, Notre Dame '51. Ben served 30 years in the Marine Corps and achieved the rank of Brigadier General before retiring and subsequently embarking on a political career. He was one of my predecessors as the Congressional representative from Guam in this, the House of the People.

It is a great honor for me to memorialize the visit of these Marine veterans, their families and friends, to the capital of our Nation for whom they carried their swords in her defense.

Our Nation owes a debt of gratitude to those who have served and to those who currently wear the uniform of our armed forces. We therefore welcome the Marine Corps officers of 11th Special Basic Course (11th SBC) on their reunion and we recognize their contributions to our Nation.

The Marine veterans and their families include: Robert Altick, Leslie Altick, Al Bailey, Mary Bailey, Charles Bentzen, Constance Bentzen, John Bickley, Anne Bickley, V. Ben Blaz, Ted Brothers, Charles Clifford, David Curry, Natalie Curry, Frank Delaney, Martha Delaney, Thomas Fallon, Mary Fallon, Marshall Figgatt, Alan Figgatt, Benis Frank, Marylou Frank, Tina Cooper, Erika Helgeson, William Keating, Robert Land, Joan Land, Thomas Land, James Land, John Lussenhop, Kay Lussenhop, Gene Moyers, Fern Moyers, Herbert Oxnam, Betty Oxnam, Richard Paschal, Len Paschal, Jordan Peck, Henry Pruitt, Mary Pruitt, Thomas Qualls, Chayne Stinemetz, Larue Stinemetz, Spatz Thomaidis, Virginia Swisher, Stanley Wilson, and Barbara Wilson.

To the Marine Corps officers of the 11th SBC and their families, may you always know that our Nation appreciates the sacrifices that you have made and that your patriotism continues to inspire the generations of Marines who follow in your footsteps. Semper Fidelis.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 12, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 13

9:30 a.m.
Armed Services
Closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

MAY 17

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold closed hearings to examine nuclear security.
S–407 Capitol
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366
Homeland Security and Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the United Nations' Oil-for-Food Program, the illegal surcharges paid on Iraqi oil sales, and the nature and extent of the 2003 Khor al-Amaya incident.
SD–562

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the current legal and regulatory requirements and industry practices for credit card issuers with respect to consumer disclosures and marketing efforts.
SD–538
Commerce, Science, and Transportation
To hold hearings to examine measures that have been taken since September 11, 2001, to secure our nation's ports, focusing on the implementation of the Maritime Transportation Security Act and vulnerabilities that remain in the maritime transportation sector.
SR–253
Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine the Administration's recommendations for the Older Americans Act Reauthorization.
SD–430

2 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold an oversight hearing to examine analysis of national in-patient satisfaction survey, focusing on questions that have been raised regarding the cost and survey burden on patients of a survey of all hospitals in the United States proposed by the Center for Medicare and Medicaid Services.
SD–562

2:30 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
Terrorism, Technology and Homeland Security Subcommittee
To hold joint hearings to examine strengthening our national security, regarding the need for comprehensive immigration reform.
SD–226

MAY 18

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366
Environment and Public Works
To hold hearings to examine eco-terrorism specifically examining the Earth Liberation Front (''ELF'') and the Animal Liberation Front (''ALF'').
SD–406
Homeland Security and Governmental Affairs
To hold hearings to examine a breakdown in safeguards again fraud and abuse in FEMA's Disaster Relief Program, focusing on FEMA's response to the 2004 hurricanes.
SD–562
Indian Affairs
To hold oversight hearings to examine issues relating to the taking of land into trust.
Room to be announced
Judiciary
To hold hearings to examine issues relating to protecting the judiciary at home and in the courthouse.
SD–226

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.
SD–538
Health, Education, Labor, and Pensions
Business meeting to consider the proposed Workforce Investment Act Amendments of 2005, and pending nominations.
SD–430

MAY 19

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366
Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold an oversight hearing to examine the Endangered Species Act.
SD–406

10 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.
SD–538

1 p.m.
Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine S. 883, to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development.
SD–419

MAY 24

2 p.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine money laundering and terror financing issues in the Middle East.
SD–538

MAY 25

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

MAY 26

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

MAY 17

10 a.m.
Agriculture, Nutrition, and Forestry
Business meeting to consider the nominations of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation.
SR–328A

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S4887–S5006

Measures Introduced: Fourteen bills were introduced, as follows: S. 994–1007. **Page S4936**

Measures Reported:

S. 285, to reauthorize the Children's Hospitals Graduate Medical Education Program, with an amendment in the nature of a substitute. (S. Rept. No. 109–66) **Page S4936**

Transportation Equity Act: Senate continued consideration of H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, taking action on the following amendments proposed thereto: **Pages S4896–4906, S4906–4929**

Adopted:

Inhofe (for Talent) Amendment No. 742 (to Amendment No. 605), to require notice regarding the criteria for small business concerns to participate in Federally-funded projects. **Page S4929**

Rejected:

Corzine/Lautenberg Amendment No. 606 (to Amendment No. 605), to establish the effect of a section of the United States Code relating to the letting of contracts on individual contributions to political campaigns, and to require the Secretary of Transportation to consider State laws that limit political contributions to be in accordance with competitive procurement requirements. (By 57 yeas to 40 nays (Vote No. 119), Senate tabled the amendment.) **Pages S4906–15**

By 28 yeas to 69 nays (Vote No. 120), Lautenberg/Dodd Amendment No. 625 (to Amendment No. 605), to provide funding for motorcycle safety programs in States without universal helmet laws. **Pages S4915–28**

By 44 yeas to 53 nays (Vote No. 121), Harkin Modified Amendment No. 618 (to Amendment No. 605), to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety. **Pages S4920–28**

Pending:

Inhofe Amendment No. 605, to provide a complete substitute. **Page S4896**

Dorgan Amendment No. 652 (to Amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices. **Pages S4918–20**

Nelson (FL) (for Feingold) Amendment No. 610 (to Amendment No. 605), to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security. **Pages S4928–29**

During consideration of this measure today, Senate also took the following action:

By 76 yeas to 22 nays (Vote No. 118), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Inhofe Amendment No. 605 (listed above). The point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974 was not sustained. **Pages S4896–S4902**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m. on Thursday, May 12, 2005, with 60 minutes of debate, followed by a vote on the motion to invoke cloture on Inhofe Amendment No. 605 (listed above). **Page S5005**

A unanimous-consent agreement was reached providing that Members have until 10:30 a.m. to file second-degree amendments. **Page S5005**

Nominations Confirmed: Senate confirmed the following nomination:

Maria Cino, of Virginia, to be Deputy Secretary of Transportation. **Page S5006**

Nominations Received: Senate received the following nominations:

Mark A. Limbaugh, of Idaho, to be an Assistant Secretary of the Interior.

Pamela E. Bridgewater, of Virginia, to be Ambassador to the Republic of Ghana.

William Alan Eaton, of Virginia, to be Ambassador to the Republic of Panama.

Henrietta Holsman Fore, of Nevada, to be an Under Secretary of State (Management). **Page S5006**

Messages From the House: **Page S4935**

Measures Referred: **Page S4935**

Measures Placed on Calendar: Page S4935

Executive Communications: Pages S4935–36

Additional Cosponsors: Pages S4936–38

Statements on Introduced Bills/Resolutions: Pages S4938–58

Additional Statements: Pages S4933–34

Amendments Submitted: Pages S4950–S5004

Authority for Committees to Meet: Pages S5004–05

Record Votes: Four record votes were taken today. (Total—121) Page S4902, S4915, S4928

Adjournment: Senate convened at 9:30 a.m. and adjourned at 6:58 p.m. until 9:30 a.m., on Thursday, May 12, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5005.)

Committee Meetings

(Committees not listed did not meet)

GYNECOLOGICAL CANCER EDUCATION

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded a hearing to examine the Gynecologic Cancer Education and Awareness Act of 2003, to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers, after receiving testimony from Andrew C. von Eschenbach, Director, National Cancer Institute, National Institutes of Health, Department of Health and Human Services; Sheryl Silver, Johanna's Law Foundation, Bloomfield Hills, Illinois; and Fran Drescher, Los Angeles, California.

LOU GEHRIG'S DISEASE

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded a hearing to examine new approaches to understand and treat ALS (Lou Gehrig's Disease), after receiving testimony from Story C. Landis, Director, National Institute of Neurological Disorders and Stroke, National Institutes of Health, Department of Health and Human Services; Lucie Bruijn, The ALS Association, Calabasas Hills, California; Rob Boresellino, The Des Moines Register, Des Moines, Iowa; Eric Obermann, Huntsville, Alabama; Tommy John, Charlotte, North Carolina; David Cone, New York, New York; and Kate Linder, Los Angeles, California.

APPROPRIATIONS: MISSILE DEFENSE PROGRAM

Committee on Appropriations: Subcommittee on Defense concluded a hearing to examine the proposed budget estimates for fiscal year 2006 for the Missile Defense Program, after receiving testimony from Lieutenant General Henry A. Obering, III, Director of the Missile Defense Agency, Department of Defense; and General James E. Cartwright, USMC, Commander, United States Strategic Command.

GPO/CBO/OFFICE OF COMPLIANCE

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 Bruce R. James, Public Printer, Government Printing Office; Douglas Holtz-Eakin, Director, Congressional Budget Office; and William W. Thompson, III, Executive Director, and Susan S. Robfogel, Chair of the Board of Directors, both of the Office of Compliance.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Strategic Forces met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2006.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Personnel met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2006.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Readiness and Management Support met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2006.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Airland continued in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2006.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee met in closed session to mark up the proposed National Defense Authorization Act for Fiscal Year 2006, but did not complete action thereon, and will meet again tomorrow.

SPYWARE

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine issues relating to spyware, focusing on spyware's ability to access a user's machine without informed consent for financial gain that threatens the viability of the Internet as a commerce, entertainment, communications and educational tool, after receiving testimony from Senator Wyden; Trevor Hughes, Network Advertising Initiative, York, Maine; C. David Moll, Webroot Software, Inc., Boulder, Colorado; and Ari Schwartz, Center for Democracy and Technology, Washington, D.C.

RURAL WATER SUPPLY ACT

Committee on Energy and Natural Resources: Committee concluded a hearing to examine S. 895, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, after receiving testimony from John W. Keys, III, Commissioner, Bureau of Reclamation, Department of the Interior; Mayor David Lansford, Clovis, New Mexico, on behalf of the Eastern New Mexico Rural Water Association; Jim T. Dunlap, Upper La Plata Water Users, Farmington, New Mexico, on behalf of the National Rural Water Association, and the New Mexico Rural Water Association; Harold Frazier, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota; and Duane A. Smith, Oklahoma Water Resources Board, Oklahoma City, on behalf of the Western States Water Council.

LANDS BILLS

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests concluded a hearing to examine S. 100, to authorize the exchange of certain land in the State of Colorado, S. 235 and H.R. 816, bills to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 404, to make a technical correction relating to the land conveyance authorized by Public Law 108-67, S. 741, to provide for the disposal of certain Forest Service administrative sites in the State of Oregon, S. 761, to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and H.R. 486, to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base, after receiving testimony from Joel Holtrip, Deputy Chief for National Forest System, and Greg Smith, Director of Lands, both of the U.S. Forest System, Department of Agriculture; and Thomas P. Lonnie, Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management, Department of the Interior.

U.S.-EUROPEAN UNION REGULATORY COOPERATION

Committee on Foreign Relations: Subcommittee on European Affairs concluded a hearing to examine the United States-European Union regulatory cooperation on emerging technologies, focusing on nanotechnology, European collection societies, and information technology accessibility for the disabled, after receiving testimony from Harris N. Miller, Information Technology Association of America, Arlington, Virginia; Frederick C. Klaessig, Degussa Corporation, Piscataway, New Jersey, on behalf of the American Chemistry Council; Frances W. West, IBM Corporation, Cambridge, Massachusetts, and Stephen F. Harper, Intel Corporation, Washington, D.C., both on behalf of the European-American Business Council; Thomas B. Patton, Philips Electronics North America Corporation, John D. Hassell, Hewlett-Packard Company, and Joseph E. Duffy, SAP Public Services, Inc., all of Washington, D.C.

BIOLOGICAL THREATS

Committee on Health, Education, Labor, and Pensions: Subcommittee on Bioterrorism and Public Health Preparedness concluded a hearing to examine 21st century biological threats, focusing on dual-purpose preparedness against natural and deliberate microbial threats, after receiving testimony from John Deutch, Massachusetts Institute of Technology, Cambridge, former Director of Central Intelligence, and former Deputy Secretary of Defense; J. Craig Venter, J. Craig Venter Institute, Rockville, Maryland; Guenael R. Rodier, World Health Organization, United Nations, New York, New York; and Harvey V. Fineberg, The National Academies, and Shelly Hearne, Trust for America's Health, both of Washington, D.C.

INDIAN TRIBE RECOGNITION

Committee on Indian Affairs: Committee held an oversight hearing to examine Federal recognition of Indian tribes, focusing on local municipalities and communities and tax and zoning issues, and casino gaming, receiving testimony from Senators Dodd and Lieberman; Representatives Shays, Simmons, and Nancy Johnson; Mary L. Kendall, Deputy Inspector General, and Lee Fleming, Director of Federal Acknowledgment, Office of Indian Affairs, both of the Department of the Interior; Connecticut Governor M. Jodi Rell, Hartford; Richard L. Velky, Schaghticoke Tribal Nation, Derby, Connecticut; Stephen R. Adkins, Chickahominy Indian Tribe, Charles City, Virginia; John Barnett, Cowlitz Indian Tribe, Longview, Washington; Kathleen J. Bragdon, College of William and Mary Department of Anthropology, Williamsburg, Virginia; and Ken Cooper, Town Action to Save Kent, South Kent, Connecticut.

Hearing recessed subject to the call.

BUSINESS MEETING

Committee on the Judiciary: Committee began mark-up of S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, but did not complete action thereon, and will meet again on tomorrow.

INTELLIGENCE

Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

House of Representatives

Chamber Action

Measures Introduced: 69 public bills, H.R. 2248-2316; 6 resolutions, H. Con. Res. 149-150 , and H. Res. 271-274 were introduced. **Pages H3196–98**

Additional Cosponsors: **Pages H3198–99**

Reports Filed: No reports were filed today.

Speaker: Read a letter from the Speaker wherein he appointed Representative Simpson to act as speaker pro tempore for today. **Page H3115**

Chaplain: The prayer was offered today by Rev. Daniel P. Gallagher, Pastor, Edon Church of Christ in Edon, Ohio. **Page H3115**

Suspensions: The House agreed to suspend the rules and pass the following measure:

Correcting the enrollment of H.R. 1268: S. Con. Res. 31, correcting the enrollment of H.R. 1268. **Pages H3119–20**

Gang Deterrence and Community Protection Act of 2005: The House passed H.R. 1279, to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, by a yea-and-nay vote of 279 yeas to 144 nays, Roll No. 168. **Pages H3120–33, H3134–61**

Rejected the Tierney motion to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with an amendment, by a recorded vote of 198 ayes to 227 noes, Roll No. 167. **Pages H3150–61**

Agreed that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment. **Pages H3143–46**

Agreed:

Sensenbrenner manager's amendment (No. 1 printed in H. Rept. 109–76), as modified, that makes a number of substantive and technical changes to the bill; **Pages H3146–47**

Cuellar amendment (No. 2 printed in H. Rept. 109–76) that establishes a National Gang Intelligence Center at the FBI; **Pages H3147–48**

Eddie Bernice Johnson of Texas amendment (No. 3 printed in H. Rept. 109–76) that establishes funding for regional databases that track gang activity in high intensity gang areas; **Page H3148**

Watson amendment (No. 4 printed in H. Rept. 109–76) that requires the Attorney General to seek input from local elected officials before designating an area as a ''High-Intensity Interstate Gang Activity Area''; **Pages H3148–49**

Watson amendment (No. 5 printed in H. Rept. 109–76) that adds 100 new inspectors and 100 new agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives to be assigned to the new High-Intensity Interstate Gang Activty Areas; **Page H3149**

Wynn amendment (No. 6 printed in H. Rept. 109–76) that authorizes the Attorney General to conduct a media campaign about the changes in penalties; **Pages H3149–50**

Norwood amendment (No. 8 printed in H. Rept 109–76) that requires DHS to provide to the National Crime Information Center of the Department of Justice information on three categories of illegal aliens; **Pages H3152–53**

Goodlatte amendment (No. 7 printed in H. Rept 109–76) that adds five years to any sentence for violent crimes or drug trafficking offenses when the violator is an illegal alien (by a recorded vote of 266 ayes to 159 noes, Roll No. 165); and **Pages H3150–52, H3158**

Norwood amendment (No. 9 printed in H. Rept 109–76) that requires a study to be conducted by the Department of Justice and the Department of Homeland Security on the link of illegal aliens and gang membership (by a recorded vote of 395 ayes to 31 noes, Roll No. 166). **Pages H3153–54, H3158–59**

Withdrawn:

Waters amendment (No. 10 printed in H. Rept 109–76) that was offered and subsequently withdrawn that sought to strike all sections of the bill that sets mandatory minimum sentences. **Page H3154**

H. Res. 268, the rule providing for consideration of the bill was agreed to by voice vote, after agreeing to order the previous question by a yea-and-nay vote of 227 yeas to 198 nays, Roll No. 164. **Pages H3120–33**

Emergency Recess: The Speaker announced an emergency recess at 12:05 p.m. The House reconvened at 1:35 p.m., and the chair announced that the roll call vote on ordering the previous question on H. Res. 268 would remain open for an additional 15 minutes. **Page H3133**

Statement regarding the Emergency Recess: The Majority Leader addressed the House regarding the emergency recess. **Pages H3133–34**

Quorum Calls—Votes: Two yea-and-nay votes and three recorded votes developed during the proceedings today and appear on pages H3133, H3158, H3158–59, H3160–61, H3161. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:15 p.m.

Committee Meetings

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing, and Related Programs held a hearing on the Treasury Department. Testimony was heard from Randal Quarles, Acting Under Secretary, International Affairs, Department of the Treasury.

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 National Highway Traffic Safety Administration. Testimony was heard from Jeffrey W. Runge, M.D., Administrator, National Highway Traffic Safety Administrator, Department of Transportation.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Military Personnel approved for full Committee action, as amended, H.R. 1815, National Defense Authorization Act for Fiscal Year 2006.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Projection Forces approved for full Committee action H.R. 1815, National Defense Authorization Act for Fiscal Year 2006.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities approved for full Committee action H.R. 1815, National Defense Authorization Act for Fiscal Year 2006.

SCHOOL READINESS ACT

Committee on Education and the Workforce: Subcommittee on Education Reform approved for full Committee action, as amended, H.R. 2123, School Readiness Act of 2005.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Committee on Energy and Commerce: Ordered reported, as amended, H.R. 1817, Department of Homeland Security Authorization Act for Fiscal Year 2006.

SECURITY CONSUMER DATA

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled ''Security Consumers' Data: Options Following Security Breaches.'' Testimony was heard from public witnesses.

ISSUANCE OF SUBPOENAS

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations approved a motion authorizing the issuance of subpoenas in connection with the Committee's investigation into the marketing, distribution, and sale of masking agents and/or other substances designed to subvert drug test results.

STATE AND LOCAL HOUSING FLEXIBILITY ACT

Committee on Financial Services: Held a hearing on H.R. 1999, State and Local Housing Flexibility Act of 2005. Testimony was heard from Alphonso R. Jackson, Secretary of Housing and Urban Development.

BASEL II: BANKING SYSTEM CHANGES

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit and the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology held a joint hearing entitled ''Basel II: Capital Changes in the U.S. Banking System and the Results of the Impact Study.'' Testimony was heard from Susan Schmidt Bies, Governor, Federal Reserve Board, Federal Reserve System; the following officials of the Department of the Treasury: Richard M. Riccobono, Acting Director, Office of Thrift Supervision; and Julie Williams, Acting Director, Office of the Comptroller of the Currency; Thomas J. Curry, Director, FDIC; and public witnesses.

FREEDOM OF INFORMATION ACT IMPLEMENTATION

Committee on Government Reform: Subcommittee on Government Management, Finance, and Accountability held a hearing entitled ''Information Policy in the 21st Century—A Review of the Freedom of Information Act. Testimony was heard from Allen Weinstein, Archivist of the United States, National Archives and Records Administration; Carl Nichols, Deputy Assistant Attorney General, Federal Programs Branch, Civil Division, Department of Justice; Linda Koontz, Director, Information Management, GAO; and public witnesses.

PLAN COLOMBIA

Committee on International Relations: Held a hearing entitled ''Plan Colombia: Major Successes and New Challenges.'' Testimony was heard from Speaker Hastert; John P. Walters, Director, Office of National Drug Control Policy; Adolfo A. Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; the following officials of the Department of State: Roger F. Noriega, Assistant Secretary, Bureau of Western Hemisphere Affairs; and Jonathan D. Farrar, Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs; Ralph D. Utley, Acting Counternarcotics Officer and Interdiction Coordinator, Department of Homeland Security.

U.S.-TURKISH RELATIONS

Committee on International Relations: Subcommittee on Europe and Emerging Threats held a hearing entitled ''The State of U.S.-Turkish Relations.'' Testimony was heard from Mark Parris, former U.S. Ambassador to Turkey; and public witnesses.

OVERSIGHT—PUBLIC PERFORMANCE RIGHTS ORGANIZATIONS

Committee on the Judiciary: Subcommittee on Courts, the Internet and Intellectual Property held an oversight hearing on Oversight of Public Performance Rights Organizations. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 38, Upper White Salmon Wild and Scenic Rivers Act; H.R. 517, Secure Rural Schools and Community Self-Determination Reauthorization Act of 2005; H.R. 539, Caribbean National Forest Act of 2005; and H.R. 1905, To amend the Small Tracts Act to facilitate the exchange of small tracts of land. Testimony was heard from Representative Baird; Joel Holtrop, Deputy Chief, National Forest System, Forest Service, USDA; the following officials of Puerto Rico: Jose L. Rivera Guerra, member, House of Representatives; and Jose Garriga Pico, member, Senate; and public witnesses.

INTERNATIONAL USE OF TECHNICAL STANDARDS AS TRADE BARRIERS

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on Europe, China and the Use of Technical Standards as Trade Barriers: How should the U.S. Respond? Testimony was heard from Hratch Semerjian, Acting Director, National Institute of Standards and Technology, Department of Commerce; and public witnesses.

OVERSIGHT—HAZARDOUS MATERIALS ENDORSEMENT BACKGROUND CHECKS

Committee on Transportation and Infrastructure: Subcommittee on Highways, Transit, and Pipelines held an oversight hearing on Hazardous Materials Endorsement Background Checks. Testimony was heard from the following officials of the Department of

Transportation: Annette M. Sandberg, Administrator, Federal Motor Carriers Safety Administration; and Todd J. Zinser; Deputy Inspector General; Tom Blank, Chief Support Systems Officer for the Transportation Security Administration, Department of Homeland Security; D. B. Smit, Commissioner, Department of Motor Vehicles, State of Virginia; and public witnesses.

OVERSIGHT—GETTING ACELA BACK ON TRACK

Committee on Transportation: Subcommittee on Railroads held an oversight hearing on Getting Acela Back on Track. Testimony was heard from Robert D. Jamison, Acting Administrator, Federal Railroad Administration, Department of Transportation; the following officials of AMTRAK: Fred E. Weiderhold, Jr., Inspector General; and William Crosbie, Director, Operations; JayEtta Z. Hecker, Physical Infrastructure Issues Director, GAO; and public witnesses.

SERVICEMEMBERS' HEALTH INSURANCE PROTECTION ACT OF 2005

Committee on Veterans' Affairs: Ordered reported, as amended, H.R. 2046, Servicemembers' Health Insurance Protection Act of 2005.

PATRIOT ACT

Permanent Select Committee on Intelligence: Held a hearing on the PATRIOT Act. Testimony was heard from James B. Comey, Jr., Deputy Attorney General, Department of Justice.

COMMITTEE MEETINGS FOR THURSDAY, MAY 12, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies, to hold hearings to examine the proposed budget estimates for fiscal year 2006 for the National Railroad Passenger Corporation (Amtrak), 9:30 a.m., SD–138.

Subcommittee on Commerce, Justice, Science and Related Agencies, to hold hearings to examine the proposed budget estimates for fiscal year 2006 for the National Aeronautics and Space Administration (NASA), 2 p.m., SD–192.

Subcommittee on State, Foreign Operations, and Related Programs, to hold hearings to examine the proposed budget estimates for fiscal year 2006 for the Department of State and foreign operations, 2 p.m., SD–124.

Committee on Armed Services: closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006, 9:30 a.m., SR–222.

Committee on Commerce, Science, and Transportation: to hold hearings to examine S. 967, to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, 10 a.m., SR–253.

Committee on Foreign Relations: business meeting to consider the nominations of John Robert Bolton, of Maryland, to be the U.S. Representative to the United Nations, with the rank and status of Ambassador, and the U.S. Representative in the Security Council of the United Nations, and to be U.S. Representative to the Sessions of the General Assembly of the United Nations during his tenure of service as U.S. Representative to the United Nations, 10 a.m., SD–419.

Committee on the Judiciary: business meeting to consider S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, the nominations of Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, and Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, and the committee's rules of procedure for the 109th Congress, 9:30 a.m., SD–226.

Full Committee, to hold hearings to examine the nominations of Rachel Brand, of Iowa, Alice S. Fisher, of Virginia, and Regina B. Schofield, of Virginia, each to be an Assistant Attorney General, Department of Justice, 4 p.m., SD–226.

Committee on Veterans' Affairs: to hold hearings to examine issues relating to the planning, providing, and paying for veterans' long-term care, 10 a.m., SR–418.

Select Committee on Intelligence: closed business meeting to consider pending intelligence matters, 2:30 p.m., SH–219.

Special Committee on Aging: to hold hearings to examine the threat of HIV affecting people over fifty, 3 p.m., SH–216.

House

Committee on Appropriations, Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, on the Saint Lawrence Seaway, 10 a.m., 2358 Rayburn.

Subcommittee on Energy and Water Development, and Related Agencies, to mark up Fiscal Year 2006 appropriations, 2 p.m., 2362 Rayburn.

Subcommittee on Military Quality of Life, and Veterans Affairs, and Related Agencies, to mark up Fiscal Year 2006 appropriations, 11 a.m., H–140 Capitol.

Committee on Armed Services, Subcommittee on Readiness, to mark up H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 9 a.m., 2118 Rayburn.

Subcommittee on Strategic Forces, to mark up H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 11 a.m., 2212 Rayburn.

Subcommittee on Tactical and Land Forces, to mark up H.R. 1815, National Defense Authorization Act for Fiscal Year 2006, 1 p.m., 2118 Rayburn.

Committee on Education and the Workforce, Subcommittee on Workforce Protections, hearing entitled "Examining Voluntary Compliance Programs that Improve Occupational Safety and Health," 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled "Specialty Hospitals: Assessing Their Role in the Delivery of Quality Health Care," 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled "Helping Consumers Obtain the Credit They Deserve," 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing entitled "Securing Our Borders: What Have We Learned From Government Initiatives and Citizen Patrols?" 2 p.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on Africa, Global Human Rights and International Operations, hearing entitled "Foreign Relations Authorization for FY 2005–2006: Embassy and Border Security," 11 a.m., 2200 Rayburn.

Subcommittee on International Terrorism and Nonproliferation, hearing entitled "Reviewing the State Department's Annual Report on Terrorism," 10:30 a.m., 2172 Rayburn.

Committee on the Judiciary, to mark up H.R. 1817, Department of Homeland Security Authorization Act for Fiscal Year 2006, 10 a.m., 2141 Rayburn.

Subcommittee on Immigration, Border Security, and Claims, hearing on H.R. 98, Illegal Immigration Enforcement and Social Security Protection Act of 2005, 2 p.m., 2141 Rayburn.

Committee on Resources, Subcommittee on National Parks, hearing on the following bills: H.R. 323, To redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library;" H.R. 774, Rocky Mountain National Park Boundary Adjustment Act of 2005; and H.R. 1084, To authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862, 10 a.m., 1324 Longworth.

Committee on Science, hearing on the Future of Computer Science Research in the U.S., 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on the Coast Guard Amendments of 2005, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, oversight hearing on the U.S. Department of Labor, Veterans Employment and Training Service (VETS), 2 p.m., 334 Cannon.

Committee on Ways and Means, to consider pending Committee business; followed by a hearing on Alternatives to Strengthen Social Security, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, Briefing on Global Updates, 9 a.m., H–405 Capitol.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, May 12

Senate Chamber

Program for Thursday: After the transaction of any routine morning business (not to extend beyond 60 minutes), Senate will continue consideration of H.R. 3, Transportation Equity Act, with a vote on the motion to invoke cloture on Inhofe Amendment No. 605, following 60 minutes of debate. Also, Senate will vote on the motion to invoke cloture on the bill.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, May 12

House Chamber

Program for Thursday: Consideration of H.R. 1544, Faster and Smarter Funding for First Responders Act of 2005 (structured rule).

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